

Monday
March 18, 1991



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How To Use The Federal Register



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THE FEDERAL REGISTER

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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:** March 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

MIAMI, FL

- WHEN:** April 18:
1st Session 9:00 am to 12 noon.
2nd Session 1:30 pm to 4:30 pm
- WHERE:** 51 Southwest First Avenue, Room 914, Miami, FL
- RESERVATIONS:** 1-800-347-1997

CHICAGO, IL

- WHEN:** April 25, at 9:00 am
- WHERE:** 219 S. Dearborn Street, Conference Room 1220, Chicago, IL
- RESERVATIONS:** 1-800-366-2998

WASHINGTON, DC

- WHEN:** May 23, at 9:00 am
- WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street, NW, Washington, DC
- RESERVATIONS:** 202-523-5240 (voice); 202-523-5229 (TDD)

NOTE: There will be a sign language interpreter for hearing impaired persons at the May 23, Washington, DC briefing.

Contents

Federal Register

Vol. 56, No. 52

Monday, March 18, 1991

Agency for Health Care Policy and Research

NOTICES

Clinical practice guidelines development:
Low back disorders, 11452

Agriculture Department

See Animal and Plant Health Inspection Service; Farmers Home Administration; Federal Crop Insurance Corporation; Forest Service

Air Force Department

NOTICES

Meetings:
Scientific Advisory Board, 11408
(3 documents)

Animal and Plant Health Inspection Service

RULES

Overtime services relating to imports and exports:
Commuted traveltime allowances, 11349-11352
(2 documents)

Commerce Department

See also International Trade Administration; National Technical Information Service

NOTICES

Agency information collection activities under OMB review, 11406

Consumer Product Safety Commission

NOTICES

Meetings; Sunshine Act, 11487

Customs Service

NOTICES

Bulk raw sugar; sampling rate charges, 11485

Defense Department

See Air Force Department

Education Department

NOTICES

Agency information collection activities under OMB review, 11408, 11409
(2 documents)

Grantback arrangements; award of funds:
Connecticut, 11409

Meetings:
Indian Education National Advisory Council, 11411
Rehabilitation training program, 11411

Energy Department

See Federal Energy Regulatory Commission

Environmental Protection Agency

PROPOSED RULES

Air quality implementation plans; preparation, adoption, and submittal; and approval and promulgation; various States:

New source review requirements; Illinois, 11387

Superfund program:

National oil and hazardous substances contingency plan—
National priorities list update, 11391

NOTICES

Air quality criteria:

Ozone control strategies and volatile organic compound reactivity; policy, 11418

Pesticide registration, cancellation, etc.:

Malathion, 11420

Toxic and hazardous substances control:

Asbestos-containing materials in public and commercial buildings other than schools—

Administrative record establishment, 11421

Premanufacture notices receipts, 11422, 11423
(2 documents)

Water pollution; discharge of pollutants (NPDES):

Louisiana, 11428-11435

(2 documents)

Executive Office of the President

See National Education Goals Panel; Presidential Documents

Farmers Home Administration

RULES

Program regulations:

Food, Agriculture, Conservation and Trade Act; implementation—

Leaseback/buyback program, 11350

Federal Aviation Administration

RULES

Airworthiness directives:

Boeing, 11355-11360

(3 documents)

Gulfstream Aerospace, 11363

Lockheed, 11364

McDonnell Douglas, 11359

SAAB-Scania, 11357

IFR altitudes, 11367

Jet routes, 11366

Standard instrument approach procedures, 11370

Transition areas, 11365

PROPOSED RULES

Airworthiness directives:

Boeing, 11378-11380

(2 documents)

Airworthiness standards:

Special conditions—

Learjet Inc. model 31A airplane, 11375

NOTICES

Committees; establishment, renewal, termination, etc.:

Aeronautics Radio Technical Commission, 11480

Environmental statements; availability, etc.:

Indianapolis International Airport, IN, 11481

Exemption petitions; summary and disposition, 11481

Federal Communications Commission

NOTICES

Meetings; Sunshine Act, 11487

Federal Crop Insurance Corporation**PROPOSED RULES**

Crop insurance; various commodities:
Peanuts, 11375

NOTICES

Standards reinsurance agreement comments, 11403

Federal Energy Regulatory Commission**NOTICES**

Electric rate, small power production, and interlocking directorate filings, etc.:

Florida Power & Light Co. et al., 11412

Natural gas certificate filings:

Tennessee Gas Pipeline Co. et al., 11413

Applications, hearings, determinations, etc.:

Cleveland Electric Illuminating Co. et al., 11416

Fourth Branch Associates, 11416

Glassboro Cogeneration, Inc., 11417

Northern Natural Gas Co., 11417

Sabine Pipe Line Co., 11417

Federal Financial Institutions Examination Council**NOTICES**

Loan with partial charge-off to accrual status; reporting standards, 11441

Federal Highway Administration**NOTICES**

Environmental statements; availability, etc.:

Montour and Northumberland Counties, PA, 11482

Federal Maritime Commission**NOTICES**

Freight Forwarder Co., Inc., et al., 11446

Federal Register Office**NOTICES**

[Editorial Note: For a list of Acts requiring publication in the Federal Register see Readers Aids section at the end of this issue.], vii

Federal Register, Administrative Committee

See Federal Register Office

Federal Reserve System**NOTICES**

Meetings; Sunshine Act, 11487

Applications, hearings, determinations, etc.:

Central Bancshares, Inc., et al., 11446

Fayette County Bancshares, Inc., et al., 11446

Nehr Korn, Walter, Dr., et al., 11447

Federal Trade Commission**PROPOSED RULES**

Trade regulation rules:

Funeral industry practices; State exemptions—
New York, 11381

NOTICES

Premerger notification waiting periods; early terminations, 11447

Fish and Wildlife Service**PROPOSED RULES**

Endangered and threatened species:

African elephant, 11392

Idaho aquatic snails, 11401

NOTICES

Endangered and threatened species:

Recovery plans—

Autumn buttercup, 11458

Food and Drug Administration**NOTICES**

Human drugs:

New drug applications—

Merrell Dow Pharmaceuticals, Inc., et al.; approval withdrawn; correction, 11453

Forest Service**PROPOSED RULES**

Minerals:

Oil and gas resources; roadless areas exclusion removed, 11383

NOTICES

Environmental statements; availability, etc.:

Mt. Baker-Snoqualmie National Forest, WA, 11403

Siskiyou National Forest, OR, 11404

General Services Administration**NOTICES**

Agency information collection activities under OMB review, 11448

Health and Human Services Department

See also Agency for Health Care Policy and Research; Food and Drug Administration; Public Health Service; Social Security Administration

NOTICES

Grants and cooperative agreements; availability, etc.:

Human services transportation technical assistance project, 11448

Health Resources and Services Administration

See Public Health Service

Interior Department

See Fish and Wildlife Service

International Trade Administration**NOTICES**

Short supply determinations:

Stainless steel wire rod, 11407

Countervailing duties:

Steel wire rope from—

India and Thailand, 11406

Interstate Commerce Commission**NOTICES**

Rail carriers:

Declaratory order petitions—

Agribusiness Shippers Group, 11458

State intrastate rail rate authority—

Colorado, 11459

New Mexico, 11459

Railroad operation, acquisition, construction, etc.:

Trailer Train Co. et al., 11459

Railroad services abandonment:

Burlington Northern Railroad Co., 11459

Florida West Coast Railroad Co., 11460

Justice Department**NOTICES**

Pollution control; consent judgments:

J.V. Peters & Co., Inc. et al., 11461

Merit Systems Protection Board**NOTICES**

Questions and answers; publication availability; call for riders:
Appeals, 11461

National Archives and Records Administration

See Federal Register Office

National Education Goals Panel**NOTICES**

Meetings, 11461

National Highway Traffic Safety Administration**NOTICES**

Meetings:
Rulemaking, research, and enforcement programs, 11483

National Mediation Board**NOTICES**

Meetings; Sunshine Act, 11487

National Science Foundation**NOTICES**

Agency information collection activities under OMB review, 11462
Antarctic Conservation Act of 1978; permit applications, etc., 11462

National Technical Information Service**NOTICES**

Patent licenses, exclusive:
Neurogen Corp., 11407

Nuclear Regulatory Commission**NOTICES**

Meetings:
Nuclear Waste Advisory Committee, 11462
Reports; availability, etc.:
Standard technical specifications for nuclear power reactors; drafts, 11462
Applications, hearings, determinations, etc.:
Northeast Nuclear Energy Co., 11463

Panama Canal Commission**RULES**

Freedom of Information Act; implementation:
Confidential commercial information; predisclosure notification procedures, 11373

Personnel Management Office**NOTICES**

Agency information collection activities under OMB review, 11463

Postal Rate Commission**NOTICES**

Visits to facilities, 11464

Presidential Documents**ADMINISTRATIVE ORDERS**

Memorandums:
Pakistan; certification of free and fair elections (Memorandum of March 4, 1991), 11347

Public Health Service

See also Food and Drug Administration

NOTICES

Organization, functions, and authority delegations:
Health Care Delivery and Assistance Bureau, Director, 11453
National Institutes of Health, Director, 11454

Research and Special Programs Administration**PROPOSED RULES**

Pipeline safety:
Natural gas transportation, etc.—
Hydrogen sulfide transportation, 11490

Resolution Trust Corporation**NOTICES**

Agency employees interaction with public officials; policy statement and procedures, 11464
Coastal Barrier Improvement Act; property availability: Alabama, 11464

Securities and Exchange Commission**NOTICES**

Agency information collection activities under OMB review, 11465
Depository institutions, nonaccrual loans; accounting standards in financial statements, 11465
Meetings:
Securities laws uniformity; conference, 11470
Meetings; Sunshine Act, 11487 (2 documents)
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 11474
National Association of Securities Dealers, Inc., 11477
Self-regulatory organizations; unlisted trading privileges:
Cincinnati Stock Exchange, Inc., 11477
Midwest Stock Exchange, Inc., 11477
Philadelphia Stock Exchange, Inc., 11478
Applications, hearings, determinations, etc.:
Public utility holding company filings, 11479

Small Business Administration**RULES**

Business loans:
Lenders making guaranteed loans of \$50,000 or less; higher interest rates, 11354
Loans to State and local development companies, 11353

Social Security Administration**RULES**

Social security benefits:
Beneficiary supplemental earnings reports; estimates, 11371

NOTICES

Social security acquiescence rulings:
Disabled widow's insurance benefits; immediate appealability of court remand order, 11454

Transportation Department

See also Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration

NOTICES

Aviation proceedings:
Certificates of public convenience and foreign air carrier permits; weekly applications, 11480
Hearings, etc.—
Iowa Airways, Inc., 11480
Fuel economy standards; enforcement:
Chrysler Corp., 11480

Treasury Department

See also Customs Service

NOTICES

Agency information collection activities under OMB review,
11484, 11485
(3 documents)

Veterans Affairs Department**NOTICES**

Agency information collection activities under OMB review,
11485, 11486
(2 documents)

Separate Parts In This Issue**Part II**

Department of Transportation, Research and Special
Programs Administration, 11490

Reader Aids

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Administrative Orders:**

Memorandums:

March 4, 1991..... 11347

7 CFR

354..... 11349

1951..... 11350

Proposed Rules:

425..... 11375

9 CFR

97..... 11352

13 CFR

108..... 11353

122..... 11354

14 CFR

39 (7 documents)..... 11355-

11364

71..... 11365

75..... 11366

95..... 11367

97..... 11370

Proposed Rules:

21..... 11375

25..... 11375

39 (2 documents)..... 11378-

11380

16 CFR**Proposed Rules:**

453..... 11381

20 CFR

404..... 11371

35 CFR

9..... 11373

36 CFR**Proposed Rules:**

228..... 11386

40 CFR**Proposed Rules:**

51..... 11387

52..... 11387

300..... 11391

49 CFR**Proposed Rules:**

191..... 11490

192..... 11490

50 CFR**Proposed Rules:**

17 (2 documents)..... 11392-

11401

TELEPHONE DOCUMENTS

CFR PARTS AFFECTED IN THIS ISSUE

A numerical list of the parts affected this month can be found in the Reader's Guide section at the end of this issue.

Administrative Order
March 1, 1967
11347
11348
11349
11350
11351
11352

11353
11354
11355
11356
11357
11358
11359
11360
11361
11362
11363
11364
11365
11366
11367
11368
11369
11370
11371
11372
11373
11374
11375
11376
11377
11378
11379
11380
11381
11382
11383
11384
11385
11386
11387
11388
11389
11390
11391
11392
11393
11394
11395
11396
11397
11398
11399
11400

11401
11402
11403
11404
11405
11406
11407
11408
11409
11410
11411
11412
11413
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11418
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11420
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11426
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11437
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11439
11440
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11442
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11445
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11448
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11450
11451
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11458
11459
11460
11461
11462
11463
11464
11465
11466
11467
11468
11469
11470
11471
11472
11473
11474
11475
11476
11477
11478
11479
11480
11481
11482
11483
11484
11485
11486
11487
11488
11489
11490
11491
11492
11493
11494
11495
11496
11497
11498
11499
11500

Administrative Order
March 1, 1967
11347
11348
11349
11350
11351
11352
11353
11354
11355
11356
11357
11358
11359
11360
11361
11362
11363
11364
11365
11366
11367
11368
11369
11370
11371
11372
11373
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11464
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11468
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11470
11471
11472
11473
11474
11475
11476
11477
11478
11479
11480
11481
11482
11483
11484
11485
11486
11487
11488
11489
11490
11491
11492
11493
11494
11495
11496
11497
11498
11499
11500

Presidential Documents

Title 3—

Memorandum of March 4, 1991

The President

Certification for Pakistan Under Section 574(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991

Memorandum for the Secretary of State

Pursuant to section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513) (the "Act"), I hereby certify that the criteria set forth in section 574(b) of the Act have been satisfied.

These criteria are as follows:

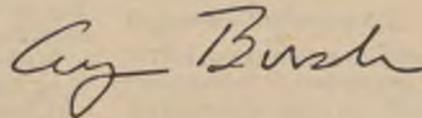
(1) the state of emergency in Pakistan did not interfere in the fair conduct of National Assembly elections;

(2) the Government of Pakistan held timely, free, fair and internationally monitored National Assembly elections, open to the full participation of all legal parties and all legal candidates of those parties;

(3) the proceedings of the Special Courts established on August 8 and August 21, 1990, did not interfere with the conduct of free and fair elections; and

(4) the process of convening the National Assembly is progressing without interference.

You are authorized and directed to transmit this certification to the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, March 4, 1991.

1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
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1995
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1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022

Memorandum of March 4, 1981

Certification for Pakistan Under Section 571(b) of the Foreign
Operations, Export Financing and Related Programs
Restrictions Act, 1981

Memorandum for the Secretary of State

Request to section 571 of the Foreign Operations, Export Financing and
Related Programs Restrictions Act, 1981 (Public Law 96-51) has been
partly satisfied. The criteria set forth in section 571(b) of the Act have been
attached.

These criteria are as follows:

- (1) The state of emergency in Pakistan did not interfere in the fair conduct of
National Assembly elections.
 - (2) The Government of Pakistan held timely free fair and internationally
monitored National Assembly elections open to the full participation of all
legal parties and all legal candidates of these parties.
 - (3) The proceedings of the Special Court established on August 5 and
August 21, 1980 did not interfere with the conduct of free and fair elections
and
 - (4) The process of convening the National Assembly is progressing without
interference.
- For use submitted and directed to transmit this certification to the Congress
and to publish it in the Federal Register.

Jeff Bezos

THE WHITE HOUSE
Washington, D.C. 20503

1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
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1989
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2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022

Rules and Regulations

Federal Register

Vol. 56, No. 52

Monday, March 18, 1991

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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 90-254]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine (PPQ) by removing and adding commuted traveltime allowances for travel between various locations in Arkansas, Kansas, Louisiana, Missouri, and Texas. Commuted traveltime allowances are the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by PPQ employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

EFFECTIVE DATE: March 18, 1991.

FOR FURTHER INFORMATION CONTACT:

Paul R. Eggert, Director, Resource Management Support, PPQ, APHIS, USDA, room 458, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7764.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR, chapter I, subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals and

animal byproducts, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of PPQ on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by removing and adding commuted traveltime allowances for locations in Arkansas, Kansas, Louisiana, Missouri, and Texas. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Executive Order 12291 and Regulatory Flexibility Act

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

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has

determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the Federal Register.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Accordingly, 7 CFR part 354 is amended as follows:

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51 and 371.2(c).

2. Section 354.2 is amended by removing or adding in the table, in

alphabetical order, the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES
[In hours]

| Location covered | Served from— | Metropolitan area | |
|----------------------------|------------------|-------------------|----------|
| | | Within | Out-side |
| Remove: | | | |
| Arkansas: | | | |
| Blytheville AFB. | | 1 | |
| Louisiana: | | | |
| Shreveport | | | |
| Burnside | Thibodaux | | 2½ |
| Donaldsonville. | Thibodaux | | 2 |
| England AFB, Alexandria. | Natchitoches | | 2½ |
| Geismar | Thibodaux | | 3 |
| St. James | Thibodaux | | 2½ |
| Uncle Sam | Thibodaux | | 3 |
| Missouri: | | | |
| Johnson County Industrial. | Kansas City | | 2 |
| Topeka | Kansas City | | 3 |
| Topeka | Wichita | | 6 |
| Wichita | | 1½ | |
| Add: | | | |
| Arkansas: | | | |
| Eaker AFB | Blytheville | 1 | |
| Kansas: | | | |
| Johnson County Industrial. | Kansas City, MO. | | 2 |
| Topeka | Kansas City, MO. | | 3 |
| Topeka | Wichita | | 6 |
| Wichita | | 1½ | |
| Louisiana: | | | |
| Barksdale AFB, Shreveport. | Monroe | | 4 |
| England AFB, Alexandria. | Monroe | | 4 |
| Lake Charles. | Alexandria | | 4 |
| Lake Charles. | Baton Rouge | | 5 |
| Texas: | | | |
| Progreso | Harlingen | | 1½ |

Done in Washington, DC, this 12th day of March 1991.

James W. Glosser,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-6380 Filed 3-15-91; 8:45 am]
BILLING CODE 3410-34-M

Farmers Home Administration

7 CFR Part 1951

Certain Leaseback/Buyback Provisions of the Food, Agriculture, Conservation and Trade Act of 1990

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) published an interim rule on September 14, 1988, in the *Federal Register* (53 FR 35638-35798) implementing certain provisions of the Agricultural Credit Act of 1987. The Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101-624) amends provisions of the Agricultural Credit Act of 1987 and therefore, obsoletes and revises certain provisions of the leaseback/buyback program of existing regulations. The purpose of this interim rule is to implement the good faith eligibility requirement for leaseback/buyback of section 1816, "Debt Restructuring and Loan Servicing," and the offering price of real farm property of section 1813, "Disposition of Suitable Property," of the Food, Agriculture, Conservation, and Trade Act of 1990.

The intended effect is to facilitate the leasing of farm inventory property for the 1991 crop year to the former owner in accordance with the leaseback/buyback provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1889) as amended by the Food, Agriculture, Conservation, and Trade Act of 1990.

DATES: Interim rule effective March 18, 1991. Comments must be submitted on or before April 17, 1991.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, USDA, room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. All written comments will be available for

public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Roger Witt, Branch Chief, Farmer Programs, Farmers Home Administration, USDA, room 5446, Washington, DC 20250, telephone (202) 382-1984.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be non-major because it will not result in an annual effect on the economy of \$100 million or more.

Programs Affected

These changes affect the following FmHA programs as listed in the catalog of Federal Domestic Assistance:

- 10.404 Emergency Loans
- 10.406 Farm Operating Loans
- 10.407 Farm Ownership Loans
- 10.410 Low Income Housing Loans (Section 502 Rural Housing Loans)
- 10.416 Soil and Water Loans

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of FmHA Programs and Activities" (December 23, 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded with the exception of nonfarm enterprise activity from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

2. The Soil and Water Loans Programs is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, (Pub. L. 91-190), an Environmental Impact Statement is not required.

Background

Section 335(e) of the Consolidated Farm and Rural Development Act (the "CONACT") 7 U.S.C. 1985, as amended by

the Food, Agriculture, Conservation, and Trade Act of 1990, Public Law 101-624 (the "1990 Farm Bill") requires FmHA to offer farm inventory property to former owners, borrower, operators, the spouse and/or children of the former owner who are actively engaged in farming if the former owner was an individual, and to entity members who are actively engaged in farming if the former owner was an entity. The 1990 Farm Bill amends the leaseback/buyback authority by imposing a good faith eligibility criterion for applicants for leaseback/buyback who are or were FmHA borrowers.

The good faith eligibility requirement in the statute for leaseback/buyback is now consistent with the good eligibility criterion for primary servicing. If a good faith determination was made in connection with primary servicing then that determination will be binding for the borrower/former borrower's good faith determination for leaseback/buyback purposes. No additional appeal rights will be given to the borrower/former borrower who is denied leaseback/buyback solely because a determination in connection with the primary servicing of the borrower/former borrower's account was made that the borrower/former borrower did not act in good faith. FmHA will notify borrowers who are denied primary servicing due to lack of good faith that this determination will preclude them not only from receiving primary servicing, but also from eligibility for leaseback/buyback and such borrowers will be given opportunity to appeal the finding of a lack of good faith in connection with the denial of primary servicing. Any borrower, however, who is afforded leaseback/buyback rights who has not had a good faith determination previously made in connection with primary servicing will have the good faith determination made in connection with the leaseback/buyback request and will be given appeal rights if a denial of leaseback/buyback is based on a lack of good faith. In addition, if a good faith determination for primary servicing was made prior to November 28, 1990, which was based on the sole fact that the borrower disposed of normal income security before October 14, 1988, without FmHA consent, and it has been determined the proceeds were used for essential household and farm operating expenses which the borrower would have been entitled to a release of income proceeds in accordance with § 1962.17(b)(2)(iii) and exhibit E of subpart A of part 1962 of this chapter,

such good faith determination will not be binding for a leaseback/buyback application filed on or after November 28, 1990.

The "good faith" requirement was added by § 1816(e) of the 1990 Farm Bill. Section 1861 of the 1990 Farm Bill provides that the amendments to the CONACT made by § 1816 apply to "new applications submitted under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) on or after the date of enactment of this Act." FmHA interprets this section as applying the good faith criterion only to those applications for primary servicing which are received on or after November 28, 1990.

The 1990 Farm Bill also amends the CONACT to remove an inconsistency between the Food Security Act of 1985 and the Agricultural Credit Act of 1987. The Food Security Act of 1985 required farmland to be sold at its capitalization value while the Agricultural Credit Act of 1987 required farmland to be sold at market value. To harmonize the conflicting provisions in the statute, FmHA promulgated regulations offering to sell farmland under the leaseback/buyback program for the lesser of capitalization value or market value. Section 1813(g) of the 1990 Farm Bill amended section 335(c)(ii)(B) of the CONACT to provide that for leaseback/buyback purposes the purchase price of real farm or ranch property (including the principal residence of the borrower) would be at a price "not greater than that which reflects the appraised market value of such farmland * * *"

The language of section 335(c)(2)(B)(ii) of the CONACT, as amended by the 1990 Farm Bill, standing alone, suggests that FmHA could sell farm property for less than market value. This, however, is not considered to be a viable option since it would be contrary to the provisions of section 335(e)(2) of the CONACT which restricts the sale of inventory property if it is determined that such sale would have a negative impact on real farm and ranch property values. A below market value sale price would not be in either the Government's best interest or the interests of other farmers or ranchers in the area.

The Agency did receive comments on the interim rule regarding the definition of good faith and offering price of real property. The 1990 Farm Bill clarifies and minimizes any inconsistencies in interpretation of the statute; therefore, the Agency is not addressing the comments because they are no longer relevant.

There are other provisions of the 1990 Farm Bill that impact the leaseback/buyback program which will be addressed in subsequent revisions to the regulation. Any proposed lease or purchase under the leaseback/buyback program which may be in accordance with the provisions of the 1990 Farm Bill but contrary to existing regulations will be held in suspense until subsequent revisions to the regulations are published.

The interim rule is being published, effective on date of publication of the rule, with a 30-day comment period. The Agency is issuing this as an interim rule because it is imperative that these revisions be implemented quickly to allow FmHA to lease (with an option to purchase) farm inventory property to the former owner for the 1991 crop year and be in compliance with the good faith and offering price provisions of the 1990 Farm Bill.

List of Subjects in 7 CFR Part 751

Account servicing, Credit, Loan programs-agriculture, Loan programs-housing and community development, Low and moderate income housing loans-servicing, Debt restructuring.

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

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 7 CFR 2.70.

Subpart S—Farmer Program Account Servicing Policy

2. Section 1951.911 is amended by redesignating paragraphs (a)(4)(i) through (a)(4)(vi) as (a)(4)(ii) through (a)(4)(vii) and adding new paragraph (a)(4)(i) and revising paragraphs (a)(6)(ii) and (a)(7)(ii) to read as follows:

§ 1951.911 Preservation loan service programs.

* * * * *

(a) * * *

(4) *Eligibility.* The County Supervisor will determine the applicant's eligibility.

(i) Any applicant for leaseback/buyback who either (1) first applied for primary servicing on or after November 28, 1990, or (2) first applied for leaseback/buyback on or after November 28, 1990, without first applying for primary servicing, and who is also the borrower/former owner, must

have acted in good faith by demonstrating sincerity and honesty in meeting agreements set forth on Form FmHA 1962-1 and agreements with FmHA.

(A) If a good faith determination has already been made in connection with the borrower/former borrower's request for primary servicing of his or her loan pursuant to § 1951.909(c)(2), such determination will be binding on the borrower/former borrower's request for leaseback/buyback. In such a case of a denial of leaseback/buyback when the borrower/former borrower had previously been denied primary loan servicing because of a determination that the borrower/former borrower had not acted in good faith, the denial of leaseback/buyback will not be appealable.

Note: A good faith determination made prior to November 28, 1990, for primary servicing, which was based on the sole fact that the borrower disposed of normal income security before October 14, 1988, without FmHA consent, and it has been determined the proceeds were used for essential household and farm operating expenses of which the borrower would have been entitled to a release of income proceeds in accordance with § 1962.17(b)(2)(iii) and exhibit E of subpart A of part 1962 of this chapter, such good faith determination will not be binding for a leaseback/buyback application filed on or after November 28, 1990.

(B) If the borrower/former borrower had not previously been considered for primary servicing and no good faith determination had been previously made, then the County Supervisor will initially determine if the borrower/former borrower acted in good faith, using the criteria of § 1951.909(c)(2). Disposal of normal income security prior to October 14, 1988, without FmHA's consent, will not constitute a lack of good faith if the proceeds were used to pay essential household and farm operating expenses and the borrower would have been entitled to a release of income proceeds in accordance with § 1962.17(b)(2)(iii) and exhibit E of subpart A of part 1962 of this chapter.

* * *

(6) * * *
(ii) All leases under the leaseback/buyback program will contain an option to purchase. Terms of the option will be set forth as part of the lease as a special stipulation in accordance with the FMI for Form FmHA 1955-20. The purchase price (option price) will be the appraised market value at the time the option is exercised as set forth in subpart A of part 1809 of this chapter (FmHA

Instruction 422.1) and supported by a current appraisal on Form FmHA 411-1, "Appraisal Report-Farm Tract." The option to purchase may be exercised any time during the term of the lease. All options expire when the lease term ends.

* * *

(7) * * *

(ii) The purchase price will be the appraised market value as set forth in subpart A of part 1809 of this chapter (FmHA Instruction 422.1) and supported by a current appraisal on Form FmHA 422-1.

* * *

Dated: February 7, 1991.

David T. Chen,

Acting Administrator, Farmers Home Administration.

[FR Doc. 91-6290 Filed 3-15-91; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket No. 90-253]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services (VS) by adding commuted traveltime allowances for travel between various locations in Tennessee. Commuted traveltime allowances are the periods of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by VS employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of the commuted traveltime between these locations.

EFFECTIVE DATE: March 18, 1991.

FOR FURTHER INFORMATION CONTACT: Louise R. Lothery, Director, Resource Management Support, VS, APHIS, USDA, room 740, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7517.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR, chapter I,

subchapter D, and 7 CFR, chapter III, require inspection, laboratory testing, certification, or quarantine of certain animals, animal byproducts, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of VS on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR part 97. Under circumstances described in § 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 97.2 of the regulations by adding commuted traveltime allowances for travel between various locations in Tennessee. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Executive Order 12291 and Regulatory Flexibility Act

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

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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

substantial number of small entities.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the Federal Register.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Accordingly, 9 CFR part 97 is amended as follows:

1. The authority citation for part 97 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51 and 371.2(d).

2. Section 97.2 is amended by adding in the table, in alphabetical order, the information as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

| Location covered | Served from— | Metropolitan area | |
|-----------------------------|----------------|-------------------|----------|
| | | Within | Out-side |
| Add: | | | |
| Tennessee: | | | |
| Fort Campbell, Clarksville. | Nashville..... | | 2 |
| Memphis..... | | 2 | |
| Memphis..... | Gadsden..... | | 4 |
| Memphis..... | Jackson..... | | 4 |
| Nashville..... | | 1 | |

Done in Washington, DC, this 12th day of March 1991.

James W. Glosser,
Administrator, Animal and Plant Health Inspection Service.
 [FR Doc. 91-6379 Filed 3-15-91; 8:45 am]
BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

Loans to State and Local Development Companies

AGENCY: Small Business Administration.
ACTION: Interim final rule.

SUMMARY: This rule reduces the Funding Fee charged a small business in connection with obtaining assistance under section 504 of the Small Business Investment Act from 3/8 of 1% to 1/4 of 1% of the net proceeds of such assistance (net debenture proceeds). The reduction reflects a decrease in program costs that the Funding Fee was established to defray. The Agency is therefore publishing this rule to pass on the reduced cost of financing to borrowers.
EFFECTIVE DATE: Effective March 18, 1991.

FOR FURTHER INFORMATION CONTACT: LeAnn M. Oliver, Deputy Director for Program Development, Office of Economic Development, Small Business Administration, 409 3rd Street, SW., Washington DC, 20416, telephone (202) 653-6986.

SUPPLEMENTARY INFORMATION: In 1986, legislation was passed which changed the source of the funding of SBA's Development Company program from the Federal Financing Bank to the public debt market. SBA was authorized by that legislation to impose fees which would cover the costs associated with the public sale of the securities used to raise the funds needed to make loans to

small businesses under the program (e.g. Trustee, printing costs, etc.). Based on an estimate of these costs, SBA established, by regulation a charge to the borrower of 3/8 of 1% of the net proceeds of each debenture which forms the basis of a sale of securities.

Careful management and reductions in the costs associated with the sales of securities have made it possible to reduce the cost of the sales of securities, and therefore, the amount charged to borrowers may be reduced. Therefore, the Agency, by publishing this rule, is reducing the funding fee and thereby the cost of financing to borrowers. This is being done in the interest of assisting small businesses to achieving their financing goals without compromising the process of obtaining the necessary funding.

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

SBA has determined that this rule, does not constitute a major rule for the purposes of Executive Order 12291, because the annual effect of this rule on the national economy would not attain \$100 million. In this regard, we estimate that the yearly differential will be approximately \$360,000 spread over 1,200 small businesses.

This rule will not result in a major increase in costs or prices to consumers, individual industries, Federal, state and local government agencies or geographic regions, and will not have adverse effects on competition, employment, investment productivity, or innovation. SBA certifies that this rule does not warrant the preparation of a Federalism Assessment in accordance with Executive Order 12612. SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities for the purpose of compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* We estimate that on a yearly basis the decrease will be approximately \$360,000 spread over 1,200 businesses.

For purposes of the Paperwork Reduction Act, Public Law 98-115, 44 U.S.C. ch. 35, SBA certifies that these rules impose no new reporting or recordkeeping requirements.

SBA hereby finds that notice and public comment prior to the effective date of these regulations is impracticable. These regulations respond to an immediate need to ensure that the disposition of government funds is adequately protected. These regulations are, therefore, effective upon publication. However, SBA is soliciting

public comments on them and will consider those comments in the development of final rules on the matter.

List of Subjects in 13 CFR Part 108

Loan programs/business, Small businesses.

For the reasons set out in the preamble, part 108 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 108 continues to read as follows:

Authority: 15 U.S.C. 687(c), 695, 696, 697a, 697b, 697c.

§ 108.504 [Amended]

2. Section 108.504(e) is amended by removing the term "three eighths of one percent (0.375%)" and substituting therefor, the term "one quarter of one percent (0.25%)."

(Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504 Loans))

Dated: February 12, 1991.

Susan Engeleiter,

Administrator.

[FR Doc. 91-8323 Filed 3-15-91; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 122

Business Loans, Interest Rates

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: The SBA is amending the regulations so that lenders which make guaranteed loans of \$50,000 or less are permitted to receive a higher interest rate. This will encourage more lenders to make smaller loans to eligible business concerns.

EFFECTIVE DATE: March 18, 1991.

FOR FURTHER INFORMATION CONTACT:

Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street NW., Washington, DC 20418. Telephone 202/653-8574.

SUPPLEMENTARY INFORMATION: On October 26, 1990, SBA published a notice of proposed rulemaking in the *Federal Register* (55 FR 43140) in which it proposed that lenders of SBA guaranteed loans of \$50,000 and under be permitted to charge higher interest rates. Eleven comments were received; of these, eight were in favor of the proposal and three were against. The three commenters suggested, as alternatives, that lenders be permitted to retain more of the guaranty fee (one

suggested that lenders be allowed to keep all of the guaranty fee, another suggested 75 percent of the fee), and that processing of smaller loans be simplified. SBA has modified the application forms for smaller loans and it plans to make further changes this year, but it still believes, as did many of the commenters, that permitting lenders to increase interest rates would encourage more lending of smaller amounts.

With respect to retention of the guaranty fee, under present provisions of the Small Business Act (15 U.S.C. 636(A)(19)(B)), an SBA participating lender which makes a loan of \$50,000 or less is permitted to retain one half of such fee (the guaranty fee is currently equivalent to two percent of such guaranteed portion). Thus, if the guaranteed portion is \$40,000, the guaranty fee is \$800, and the lender is permitted to keep \$400 and remit to the SBA the remaining \$400. The legislation, therefore, does not permit SBA to change the rules concerning the retention of the guaranty fee and the suggestions of the commenters cannot be implemented by SBA. In light of the foregoing, the rule is being promulgated as proposed.

The cost of processing and servicing loans is relatively constant. There is little processing or servicing cost differential to a lender between a \$50,000 loan and a \$500,000 loan. There does exist, however, a notable benefit differential to the lender. The lender's interest earnings are greater on a large loan. Congress recognized this fact when it enacted Public Law 100-533 on October 25, 1988 (102 Stat. 2693) which initially authorized the guaranty fee sharing for smaller loans. As noted above, SBA has made some changes to the forms for making smaller loans and plans to make further changes in accord with the suggestions of some of the commenters.

In 1989, the year in which such guaranty fee sharing was introduced, 14.7 percent of the SBA guaranteed loans was under \$50,000. In the first two quarters of fiscal 1990, 15.3 percent of such loans was less than \$50,000. In the third quarter of fiscal 1990, the percentage of guaranteed loans less than \$50,000 was 16.8 percent. The incentives appear to be having a positive impact, although not so great as SBA desires. SBA wants lenders to make smaller loans available to more small businesses and it believes that this can be accomplished if the interest rate structure is adjusted in order to give lenders a greater incentive to offer such loans.

SBA has statistical information indicating that many of the loans presently made in amounts up to \$50,000 are made at interest rates below the SBA maximum permissible rate. This would indicate the existence of competition among these lenders for loans in such amounts. For this reason, SBA believes it is unlikely that this final rule would increase interest costs to qualifying borrowers at currently participating institutions. This final regulation is intended to provide an inducement to those lenders which do not presently make such loans by offsetting all or part of the proportionately higher costs of making smaller loans.

The law requires that the interest rate charged by an SBA participating lender be legal and reasonable. Within these parameters, the Agency has promulgated maximum interest rates which lenders must comply with in making guaranty loans. Thus, for a variable rate loan with a maturity under seven years, the initial maximum interest rate cannot exceed 2¼ percentage points over a base rate (which is described in § 122.8-4(d) of SBA regulations). For a variable rate loan with a maturity of seven years or more, the initial maximum interest rate cannot exceed 2¾ percentage points over a base rate. A fixed rate loan uses the same percentage points over the prime rate. Allowing lenders to retain one half of the guaranty fee with respect to smaller loans may not be a sufficient incentive for them to make these loans in the numbers that SBA believes to be desirable as a matter of public policy. If the interest rate maximums as set forth in the regulations and summarized above are changed as provided in this final rule it will encourage lenders to make more loans of \$50,000 and less. However, SBA intends to monitor all loans made in amounts up to \$50,000 to determine whether such loans continue to be made at competitive rates and to assure that the maximum permissible rate does not become an automatic floor.

Accordingly, SBA is amending the regulations so that for variable rate loans between \$25,000 and \$50,000 the lender is permitted to add one percentage point to the above-stated maximums. For variable rate loans less than \$25,000, a lender is allowed to add two percentage points to the above maximums. For guaranteed loans carrying a fixed rate of interest, SBA, pursuant to § 122.8-3 of the regulations (13 CFR 122.9-3), will publish from time to time in the *Federal Register* the maximum rate permitted for smaller

loans, adding the same percentage points described above. The use of these higher maximums for smaller loans is not mandated or required. SBA, as a matter of policy, prefers such rates to be as low as possible. In practice, the marketplace will determine the actual rate. The Agency is promulgating these changes to encourage lenders by giving them this option of a greater return for making a smaller loan.

Section 122.8-4 is repealed since it relates to a pilot project established in 1984 for one year. Fluctuations of the interest rates for loans made pursuant to this pilot are governed by other provisions in the regulations.

Compliance with Executive Orders 12291 and 12612, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Paperwork Reduction Act, 44 U.S.C. ch. 35.

For the purposes of Executive Order 12291, SBA certifies that this rule is not a major rule since the change is not likely to result in an annual effect on the economy of \$100 million or more. This is because 17 percent of the Agency's portfolio consists of smaller loans, so the effect of this rule on that portion would only add one or two percentage points to their already determinable borrowing costs and that incremental increase would not approach such dollar amount.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., SBA certifies that this final rule, though it does not constitute a major rule, will have a significant impact on a substantial number of small entities. As such SBA offers the following Regulatory Flexibility analysis:

1. This final rule to allow higher interest rates for smaller loans is being promulgated to encourage more participating lenders to make such loans to eligible businesses.

2. The legal basis for this regulation is sections 5(b) (6) and 7(a) of the Small Business Act, as amended, 15 U.S.C. 634(b)(6) and 636(a).

3. This regulation will apply to all small business borrowers who receive SBA guaranteed loans of \$50,000 or less. Currently such loans account for 17 percent of SBA's total loan portfolio. While it is not possible to determine the exact number of small business concerns which will receive such loans in the future, the purpose of this regulation is to increase the number of small loans to eligible concerns, therefore, it is expected that this rule will be applicable to approximately 20 percent of SBA's borrowers.

4. This regulation will impose no new reporting, recordkeeping, or other compliance requirements.

5. There are no Federal rules which duplicate, overlap, or conflict with this rule.

6. Three alternative proposals were considered in promulgation of this rule. The first alternative was to allow lenders to retain the entire guaranty fee. SBA cannot implement this approach, however, since the law specifically authorizes lenders to retain only one-half of the guaranty fee. Second, an alternative proposal was to simplify the forms used for the small loan program. SBA has been pursuing this course and does plan to continue the process. However, this by itself, will not substantially increase the number of smaller loans. The final alternative would have been for SBA to take no action. SBA decided that this was not acceptable since the trend towards smaller loans was not growing as quickly as the Agency had anticipated utilizing only the existing statutory authority pertaining to guaranty fees. Therefore, SBA is promulgating this rule.

This final rule would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

This final rule would not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 122

Loan programs/business, Small businesses.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA amends part 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 122—BUSINESS LOANS

1. The authority citation for part 122 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a).

2. Paragraph (h) of § 122.8-4 is removed; paragraph (g) is redesignated (h), and a new paragraph (g) is added to read as follows:

§ 122.8-4 Variable (fluctuating) rate.

* * * * *

(g) *Special rules for smaller loans approved through September 30, 1991.* For a variable rate loan between \$25,000 and \$50,000, the maximum interest rate described above may be increased by one percentage point. For a variable rate loan of \$25,000 or less, the maximum

interest rate described above may be increased by two percentage points.

* * * * *

(Catalogue of Federal Domestic Assistance Programs, No. 59.012, Small Business Loans)

Dated: January 30, 1991.

Susan Engeleiter,
Administrator.

[FR Doc. 91-6324 Filed 3-15-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-116-AD; Amendment 39-6933]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which currently requires a one-time ultrasonic inspection for delamination of the window belt skin doubler from the fuselage skin; high frequency eddy current (HFEC) inspection of the skin for cracking; repair, if necessary; and reporting of inspection findings. This amendment requires repetitive inspections until the terminating modification has been accomplished. This amendment is prompted by reports, submitted as a result of the existing AD, which indicated that approximately one-third of the airplanes inspected had disbonding. This condition, if not corrected, could result in rapid decompression of the airplane.

EFFECTIVE DATE: April 15, 1991.

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

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2775. 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 by superseding AD 89-15-05, Amendment 39-6264 (54 FR 29529, July 13, 1989), applicable to Boeing Model 737 series airplanes, to require repetitive inspections for delamination of the window belt skin doubler from the fuselage until a terminating modification is installed, was published in the *Federal Register* on October 5, 1990 (55 FR 40855).

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 Air Transport Association (ATA) of America, on behalf of its members, requested that the repetitive ultrasonic inspection interval be increased from the proposed 6,000 cycles to 7,500 cycles or 9,000 cycles for the convenience of accomplishing the inspection during normally scheduled maintenance. Also, the manufacturer requested that the repetitive ultrasonic inspection interval to detect delamination, as defined in paragraph A., be extended from the proposed 6,000 cycles to 20,000 cycles, since in-service data indicates that the bonds which were not already found disbonded are likely to remain bonded. The FAA does not concur. The initial and repetitive inspection intervals for this AD action were developed in consideration of the degree of urgency associated with addressing the unsafe condition, the availability of parts, and the practical aspect of performing the inspections during times of regularly scheduled maintenance. Also, the FAA considers that the factors affecting disbonding are not fully understood at this time, and that service experience is inconclusive in this area.

The ATA and the manufacturer requested that the rule be revised to reference Revision 2 of the pertinent Boeing service bulletin, since this revision is the first revision to include procedures for installing a terminating modification. The FAA concurs. Since issuance of the Notice, the FAA has reviewed and approved Boeing Service Bulletin 737-53-1078, Revision 2, dated April 19, 1990, which describes procedures for inspection for delamination and cracking of the fuselage window belt skin, and procedures for repair (modification). Revision 2 explicitly identifies the repair for disbonding as also being the terminating modification for the required inspections. The final rule has been revised to allow modification in accordance with either Revision 1 or Revision 2 of the service bulletin.

The ATA further requested that the repair be acceptable as terminating action. The FAA concurs, since the repair requires inspection to determine the extent of cracking, and the additional repair doublers are installed with fasteners, which have the same effect on the fuselage skin as the required terminating modification. Paragraph C. of the final rule has been revised accordingly.

The manufacturer requested clarification of paragraph B., specifically if repetitive high frequency eddy current (HFEC) inspections were required in areas where disbonding is detected. The FAA's intent in paragraph B. is to ensure that cracking is detected subsequent to delamination. The inspections specified in paragraph B. need only be accomplished if disbonding is detected by the inspections required by paragraph A. Once disbonding has been detected as a result of the ultrasonic inspection required by paragraph A., that disbonding will continue to be detected on all subsequent repetitive ultrasonic inspections. Since proposed paragraph B. would require a HFEC inspection following each ultrasonic inspection detecting disbonding, the effect is that, following detection of disbonding, HFEC inspections would have to be repeated at the same intervals as ultrasonic inspections. Paragraph B. of the final rule has been revised to clarify this.

The manufacturer also requested that the HFEC inspection repetitive interval of 6,000 cycles, proposed in paragraph B. of the NPRM, be reduced to 4,500 cycles. The FAA does not concur, since the rule requires the terminating modification to be accomplished prior to the accumulation of 40,000 cycles or within 24 months, whichever occurs later, after the discovery of the delamination. Boeing Service Bulletin 737-53-1078, Revision 2, dated April 19, 1990, specifies that the threshold for the initial inspection of the window belt skin panels for disbonding of the doubler is within 2 years after receipt of the service bulletin, or within 2 years after accumulating 40,000 cycles, whichever occurs later. In effect, this AD action is more stringent than the Boeing service bulletin. However, the FAA may consider further rulemaking to reduce the HFEC repetitive inspection to 4,500 cycles from 6,000 cycles if additional inspection results indicate that such a reduction is warranted.

Paragraph E. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternative methods of compliance.

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

There are approximately 519 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 164 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 manhours per airplane to accomplish 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 \$26,240.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A 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 superseding AD 89-15-05, Amendment 39-6264 (54 FR 29529, July 13, 1989), with the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, line numbers 001 through 519, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent rapid decompression of the airplane, accomplish the following:

A. Within the next 3,000 cycles after the effective date of this AD, unless previously accomplished within the last 3,000 cycles, and thereafter at intervals not to exceed 6,000 cycles, perform an ultrasonic inspection for delamination of the window belt skin doubler from the fuselage skin, in accordance with Boeing Service Bulletin 737-53-1078, Revision 1, dated September 25, 1986, or Revision 2, dated April 19, 1990.

B. If delamination is found as a result of the inspections required by paragraph A. of this AD, prior to further flight, conduct a high frequency eddy current (HFEC) inspection for cracks of the skin around the countersunk fasteners in the area of delamination and common to the window forging, in accordance with Boeing Model 737 Non-destructive Test (NDT) Manual Document D6-37239, Part 6, Subject 53-30-05, and repeat thereafter at intervals not to exceed 6,000 cycles.

C. If cracks are detected as a result of the inspection required by paragraph B. of this AD, prior to further flight, repair cracking and delamination in accordance with Boeing Service Bulletin 737-53-1078, Revision 1, dated September 25, 1986, or Revision 2, dated April 19, 1990. Further HFEC inspections for cracks under the repairs are not required.

D. In delamination is found as a result of the inspection required by paragraph A. of this AD, perform the terminating modification in accordance with Boeing Service Bulletin 737-53-1078, Revision 1, dated September 25, 1986, or Revision 2, dated April 19, 1990, prior to the accumulation of 40,000 cycles or within the next 24 months, whichever occurs later, after discovery of the delamination. Accomplishment of this modification constitutes terminating action for the inspections required by paragraphs A. and B. of this AD.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing

Commercial Airplane Group, P.O. Box 3707, Seattle, Washington, 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment supersedes Amendment 39-6264, AD 89-15-05.

This amendment becomes effective April 15, 1991.

Issued in Renton, Washington, on March 1, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 91-6329 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-185-AD; Amendment 39-6932]

Airworthiness Directives; SAAB-Scania Models SF-340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain SAAB-Scania Models SF-340A and SAAB 340B series airplanes, which requires replacement of certain life-limited components associated with the main landing gear (MLG) and nose landing gear (NLG) in accordance with revised life limits. This amendment is prompted by an analysis in which the landing gear component life limits have been recalculated in order to compensate for operation of the SAAB Model 340 series airplanes at higher weights than the projected weights used to establish the life limits during airplane certification. Failure to replace the landing gear components at these new life limits could result in reduced structural capability of the MLG and NLG.

EFFECTIVE DATE: April 15, 1991.

ADDRESSES: The applicable service information may be obtained from SAAB-Scania AB, Product Support, S-581.88, Linköping, Sweden. 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. Mark Quam, Standardization Branch, ANM-113, telephone (206) 227-2145. 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 SAAB-Scania Model SF-340A and SAAB 340B series airplanes, which requires replacement of certain life-limited components associated with the main landing gear (MLG) and nose landing gear (NLG) in accordance with revised life limits, was published in the Federal Register on December 7, 1990 (55 FR 50567).

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 supported the rule.

After careful review of the available data, including the comment 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 108 airplanes of U.S. registry will be affected by this AD, that it will take approximately 48 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. The estimated cost for required parts is \$4,700. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$714,960.

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:

SAAB-Scania: Applies to Model SF-304A series airplanes, Serial Numbers 004 through 159; and SAAB 340B series airplanes, Serial Numbers 160 and subsequent; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To ensure proper operation of the nose landing gear (NLG) and main landing gear (MLG), accomplish the following:

A. Remove the NLG and MLG components identified in Attachments 1 through 6 of SAAB Service Bulletin 340-32-066, Revision 1, dated October 17, 1990, and replace them with serviceable components prior to the accumulation of the number of landings listed in the "Fatigue-Life Flights" column of the applicable "Life Limited Parts List," or within 60 days after the effective date of this AD, whichever occurs later. Thereafter, replace these components with serviceable components at intervals not to exceed the number of landings listed in the "Fatigue-Life Flights" column of the applicable "Life Limited Parts List."

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 SAAB-Scania AB, S-581.88, Product Support, Linköping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective April 15, 1991.

Issued in Renton, Washington, on February 28, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-6335 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-45-AD; Amendment 39-6945]

Airworthiness Directives; Boeing Model 737 and 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 and 757 series airplanes, which requires modification of the Electronic Flight Instrument System (EFIS) symbol generators. This amendment is prompted by recent reports of random EFIS symbol generator failures. This condition, if not corrected, could result in loss of all primary flight instruments for one pilot during a critical flight phase.

EFFECTIVE DATE: April 3, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124; and Collins Air Transport Division/Rockwell International, 400 Collins Road NE., Cedar Rapids, Iowa 52406. 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. Kenneth J. Schroer, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2795. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: There have been three recently reported incidents of failures of the EFIS symbol generator on Boeing Model 737 series airplanes, which resulted in the EFIS display "blinking" (going blank). The failures are attributed to the symbol generator computer accessing an invalid address, causing its monitors to shut it down. This type of random failure could result in loss of all primary flight instruments to one pilot. The same

symbol generator design is also installed on certain Model 757 series airplanes.

The FAA has reviewed and approved Collins Service Bulletin EFIP-701E-34-03, dated February 1, 1991, which describes procedures to modify the symbol generators so as to eliminate the potential blanking of the associated display units.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires modification of certain serial numbered symbol generators in accordance with the service bulletin previously described.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 737 series airplanes, line numbers 1975 through 1989; and Model 757 series airplanes, line numbers 338 through 343; equipped with an Electronic Flight Instrument System (EFIS) using symbol generators, part number S242T404-420; certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent blanking of either pilot's EFIS display and loss of one pilot's primary flight instruments, accomplish the following:

A. Within 10 days after the effective date of this AD, inspect the EFIS symbol generators installed on the airplane and record the modification status. EFIS symbol generators which do not have Modification 3 implemented, must be removed and modified in accordance with Collins Service Bulletin EFIP-701E-34-03, dated February 1, 1991, prior to further flight.

B. Any EFIS Symbol Generators with part number S242T404-420 which do not have Modification 3 implemented, must be modified in accordance with Collins Service Bulletin EFIP-701E-34-03, dated February 1, 1991, before installation on an airplane.

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

Note: The request should be forwarded through an FAA Principal Avionics Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

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

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

This amendment becomes effective April 3, 1991.

Issued in Renton, Washington, on March 8, 1991.

Darrell M. Pederson,
Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.

[FR Doc. 91-6331 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-21-AD; Amendment 39-6934]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 (MD-80) Series Airplanes and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-9-80 (MD-80) series airplanes and Model MD-88 airplanes, which requires repetitive inspections and functional checks of the tailcone release system for proper operation. This amendment is prompted by reports of the existence of discrepancies within the tailcone release system which may cause failure of the tailcone to drop away when release activation is attempted. This condition, if not corrected, could result in the inability of passengers and crew members to exit through the tail of the airplane during an emergency evacuation.

EFFECTIVE DATE: March 26, 1991.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801, Attn: Business Unit Manager, Technical Publications, C1-HCW (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Aerospace Engineer, Northwest Mountain Region, ANM-131L, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; telephone (213) 988-5355.

SUPPLEMENTARY INFORMATION: During functional checks of the tailcone emergency evacuation system on McDonnell Douglas Model DC-9 Series and DC-9-80 (MD-80) series airplanes, the tailcone release systems did not function properly. Subsequent investigations have revealed that numerous tailcone release systems are not in proper working order. Discrepancies discovered have included the need for excessive pull force to activate the system, and the misrigging of cables which could prevent tailcone release. This condition, if not corrected,

could result in failure of the tailcone to release and could prevent passengers and crew members from exiting through the tail emergency exit during an emergency evacuation.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin A53-244, Revision 1, dated February 8, 1991, which describes procedures for inspecting and accomplishing a functional test of the tailcone release system.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive functional tests and inspections of the tailcone release system in accordance with the service bulletin previously described.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

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

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

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

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

(otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Applies to Model DC-9-80 (MD-80) series airplanes and Model MD-88 airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To confirm proper operation and maintenance of the tailcone release system, accomplish the following:

A. Prior to the accumulation of 12 months in service since the airplane was delivered from the manufacturer, or within 90 days after the effective date of this AD, whichever occurs later, accomplish a tailcone release system functional test and inspection in accordance with the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin A53-244, Revision 1, dated February 8, 1991.

B. Discrepancies in the operation of the tailcone release system found as a result of the functional test required by paragraph A. of this AD must be repaired prior to further flight.

C. Repeat the tailcone release system functional test and inspection required by paragraph A. of this AD at intervals not to exceed 3,500 flight hours or 18 months, whichever occurs first.

D. Report any discrepancies found during the accomplishment of the inspection and functional tests required by paragraph A. of this AD to the Manager, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425, within 30 days after discovery.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801, Attn: Business Unit Manager, Technical Publications, C1-HCW (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective March 26, 1991.

Issued in Renton, Washington, on March 1, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-6334 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-22-AD; Amendment 39-6943]

Airworthiness Directives; Boeing Models 707-300, -300B, -300C, and -400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Boeing Models 707-300, -300B, -300C, and -400 series airplanes, which currently requires repetitive visual inspections for cracks in the front spar upper terminal fitting lugs of the horizontal stabilizer center section, and repair, replacement, or modification, if necessary. This amendment requires visual and ultrasonic inspections of the upper terminal fittings at the horizontal stabilizer front spar, and repair or replacement, if necessary. This amendment is prompted by an analysis of Model 707 service bulletins selected as part of the "Aging Fleet Program" which revealed that some of the modifications required by the existing AD, when combined with certain repairs, will result in a configuration that will not sustain the ultimate design load of the airplane. Ultimate design load capability is necessary for continued safe operation. This condition, if not corrected, could result in loss of horizontal stabilizer and subsequent reduced controllability of the airplane.

EFFECTIVE DATE: April 3, 1991.

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

FOR FURTHER INFORMATION CONTACT:

Ms. Della Swartz, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2776. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: On January 18, 1972, the FAA issued AD 70-02-11, Amendment 39-1582, to require repetitive visual inspections for cracks in the front spar upper terminal fitting lugs in the horizontal stabilizer center section, and repair, replacement, or modification, if necessary. That AD was prompted by reports of stress corrosion cracks in these fitting lugs. This condition, if not corrected, could lead to separation of the horizontal stabilizer and resulting loss of controllability of the airplane.

Since the issuance of that AD, the manufacturer has conducted an analysis of the Model 707 service bulletins selected as part of the "Aging Fleet Program." It was discovered during this analysis that certain modifications required by AD 70-02-11, when used in combinations with other repairs, will result in a configuration that will not sustain the ultimate design load of the airplane. Ultimate design load capability is required for continued safe operation. This condition, if not corrected, could result in loss of the horizontal stabilizer and subsequently severely reduce controllability of the airplane.

The FAA has reviewed and approved the following Boeing service bulletins:

a. Boeing Alert Service Bulletin A3482, dated September 27, 1990, which describes the procedures for inspection and modification of the horizontal stabilizer front spar upper terminal fittings.

b. Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, which describes the procedures for installation and repair of the safety strap on center section lug.

c. Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979, which describes procedures for rework of the center section upper lug and defines the rework limits for cracks in the lugs.

d. Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988,

which describes the procedures for rework of the outboard fitting upper lug and defines the rework limits for cracks in the lugs.

e. Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967, which describes the procedures for repair of the outboard fitting upper clevis lug.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires visual and ultrasonic inspections of the upper terminal fittings at the horizontal stabilizer front spar, and repair or replacement, if necessary, in accordance with the service bulletins previously described. The necessary repair or replacement actions are based upon the findings of the inspections required by this AD, and range from no modification of either of the lugs or replacement of the outboard fitting or safety strap, to rework of the lugs or complete replacement of the outboard fittings or safety strap. This AD also provides for an optional terminating action for the required inspections of the center section upper lugs and the outboard fitting upper lugs as replacement of the fittings with a fitting made of 7075-T73 aluminum.

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

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

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

and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-1582, AD 70-02-11, with the following new airworthiness directive:

Boeing: Applies to Models 707-300, -300B, -300C, and -400 series airplanes, listed in Boeing Alert Service Bulletin A3482, dated September 27, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure continued structural integrity of the horizontal stabilizer, accomplish the following:

A. Within the next 45 days after the effective date of this AD, determine the composition of the material in the horizontal stabilizer front spar center section assembly and the outboard upper fittings. If the material of the center section is 7075-T73 aluminum, no inspection of the center section is required by this AD. If the material of the outboard fitting is 7075-T73 aluminum, no further inspection of the outboard fitting is required by this AD.

B. If the material of the center section is 7079-T6 aluminum, prior to further flight, conduct a close visual and ultrasonic inspection of the center section upper lugs for cracks, in accordance with Figure 2 of Boeing Alert Service Bulletin A3482, dated September 27, 1990, and determine if the safety strap has been installed in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, or earlier revisions. Determine which of the following conditions describes each of the center section upper lugs:

1. No crack in the lug and there is no safety strap installed.

2. No crack in the lug and the safety strap is installed for a crack-free lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

3. No crack in the lug and the safety strap is installed for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, or earlier revisions.

a. Without an anti-fretting washer installed.

b. With an anti-fretting washer installed.

4. Crack in the lug and the crack length is within repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979, and there is no safety strap.

5. Crack in the lug and the crack length is within repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979, and the safety strap is installed for a crack-free lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

6. Crack in the lug and the crack length is within repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is installed for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, or earlier revisions.

a. Without an anti-fretting washer installed.

b. With an anti-fretting washer installed.

7. Crack in the lug and the crack length is beyond repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and there is no safety strap installed.

8. Crack in the lug and the crack length is beyond the repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is installed for a crack-free lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

9. Crack in the lug and the crack length is beyond the repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is installed for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

10. Crack in the lug and the crack length is beyond repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is installed in accordance with Boeing Service Bulletin 3067, Revision 2, dated February 9, 1979, or earlier revisions (i.e., without anti-fretting washer installed).

11. Crack in the lug and the crack length is beyond repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is approximately 1/4 inch in thickness.

C. If the material of the outboard fitting is 7079-T6 aluminum, prior to further flight, conduct a close visual and ultrasonic inspection of the outboard fitting upper clevis lugs in accordance with Figure 3 of Boeing Alert Service Bulletin A3482, dated September 27, 1990. Determine which of the following conditions describes each of the outboard fitting upper clevis lugs:

1. No crack is found in lug.

2. The lug is cracked and not repaired.

3. The lug is cracked and repaired in accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967.

D. Repair or replace lugs in accordance with Table 1 below:

TABLE 1.—REPLACEMENT OR MODIFICATION REQUIREMENTS

| Condition of center section upper lug as determined from Paragraph B. of this AD. | Condition of the outboard fitting upper clevis lug as determined from Paragraph C. of this AD | | |
|---|---|-----------------|-----------------|
| | C.1 | C.2 | C.3 |
| B.1..... | Para. D.1..... | Para. D.2..... | Para. D.1..... |
| B.2..... | Para. D.1..... | Para. D.2..... | Para. D.1..... |
| B.3..... | Para. D.3..... | Para. D.4..... | Para. D.3..... |
| B.4..... | Para. D.5..... | Para. D.6..... | Para. D.5..... |
| B.5..... | Para. D.5..... | Para. D.6..... | Para. D.5..... |
| B.6..... | Para. D.7..... | Para. D.8..... | Para. D.7..... |
| B.7..... | Para. D.9..... | Para. D.10..... | Para. D.11..... |
| B.8..... | Para. D.12..... | Para. D.13..... | Para. D.14..... |
| B.9..... | Para. D.1..... | Para. D.15..... | Para. D.16..... |
| B.10..... | Para. D.17..... | Para. D.18..... | Para. D.19..... |
| B.11..... | Para. D.20..... | Para. D.21..... | Para. D.22..... |

1. No modification or replacement is required by this AD.

2. Prior to further flight, repair the outboard fitting upper clevis lug in accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988.

3. Prior to further flight, modify the safety strap to maintain a clearance in the hole of the strap in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

4. Prior to further flight, repair the outboard fitting upper clevis lug in accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967; or, for a crack within rework limits, rework in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, modify the safety strap to maintain a clearance in the hole of the strap, in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

5. Prior to further flight, modify the center section upper lug in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979.

6. Prior to further flight, modify the center section upper lug in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979. Additionally, prior to further flight, repair the outboard fitting upper clevis lug in accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988.

7. Prior to further flight, modify the center section upper lug in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and modify the safety strap to maintain a clearance in the hole of the strap in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

8. Prior to further flight, modify the center section upper lug in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and modify the safety strap to maintain a clearance in the hole of the strap in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979. Additionally, prior to further flight, repair the outboard fitting upper clevis lug in

accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988.

9. Prior to further flight, install the safety strap as a repair for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

10. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, install the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

11. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990; and install the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

12. Prior to further flight, modify the safety strap as a repair for a cracked lug in accordance with Boeing Service Bulletin 3482, dated September 27, 1990.

13. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990; or, for a crack within rework limits modify the outboard fitting upper lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, modify the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990.

14. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990; and modify the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990.

15. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482,

dated September 27, 1990; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988.

16. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990.

17. Prior to further flight, modify the safety strap as a repair for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

18. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin A3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, modify the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990.

19. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990; and modify the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990.

20. Prior to further flight, replace the safety strap with a strap having an interference hole in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 17, 1979.

21. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin A3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, replace the safety strap with a strap having an interference hole in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 17, 1979.

22. Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990; and replace the safety strap with a strap having an interference hole in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 17, 1979.

E. Repeat the inspection of the center section lugs required by paragraph B. of this AD at intervals not to exceed 1,000 flight cycles or 1 calendar year, whichever occurs first. If a crack is found, prior to further flight, repair or replace the center section lugs in accordance with paragraph D. of this AD.

F. Repeat the inspection of the outboard fitting upper clevis lugs required by paragraph C. of this AD at intervals not to exceed 1,000 flight cycles or 1 calendar year, whichever occurs first. If a crack is found, prior to further flight, repair or replace the outboard fitting upper clevis lugs in accordance with paragraph D. of this AD.

G. Replacement of both the horizontal stabilizer center section front spar assembly and the outboard front spar fittings, with an assembly and fittings made of 7075-T73 aluminum, in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979, and Boeing Alert Service Bulletin A3482, dated September 27, 1990, constitutes terminating action for the inspection requirements of this AD.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

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

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

This amendment supersedes Amendment 39-1582, AD 70-02-11

This amendment becomes effective April 3, 1991.

Issued in Renton, Washington, on March 8, 1991.

Darrell M. Pederson,
Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.
[FR Doc. 91-6330 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-187-AD; Amendment 39-6942]

Airworthiness Directives; Gulfstream Aerospace Model G-IV Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Gulfstream Model G-IV series airplanes, which requires detailed integrity testing of the Avionics Standard Communication Bus, and repair or replacement of defective connectors, if necessary. This amendment is prompted by reports of numerous intermittent failure annunciations while flying in turbulent Instrument Meteorological Conditions (IMC), due to defective connectors. This condition, if not corrected, could result in increased crew workload during adverse weather conditions that could cause hazardous operation during a critical phase of flight.

EFFECTIVE DATE: April 22, 1991.

ADDRESSES: The applicable service information may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, Savannah, Georgia 31402-2206. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT:

Mr. James H. Williams, Systems and Equipment Branch, ACE-130A; telephone (404) 991-3020. Mailing address: FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Gulfstream Model G-IV series airplanes, which requires detailed integrity testing of the Avionics Standard Communication Bus (ASCB), and repair or replacement of defective connectors, if necessary, was published in the *Federal Register* on October 10, 1990 (55 FR 41197).

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

One commenter recommended that the AD be revised to require that an annual or semi-annual inspection be conducted on the ASCB bus connectors. The commenter stated that this will eliminate any problems related to that system from recurring. The commenter also stated that the problem was originally caused by manufacturing defects in the cable assemblies. The FAA agrees that the problem was

caused, in part, by the defective cable assemblies. The FAA has investigated this problem and is convinced that Gulfstream has resolved the problem by assembling the cables in their factory instead of purchasing them from a third party. The FAA disagrees with the commenter's suggestion to add an annual or semi-annual inspection requirement to this AD section. The problem has occurred due to a combination of defective cables and poor installation techniques. These problems can be detected and, once repaired, are not likely to recur.

A second commenter opposed the AD because all operators have already complied with, or soon will comply with, the provisions of the AD. The FAA does not concur. The FAA has received no documentation that all operators have accomplished the actions as specified in the AD. Also, in accordance with various bilateral airworthiness agreements, the FAA is obligated to advise foreign airworthiness authorities of unsafe conditions identified in products manufactured in the United States; the issuance of AD's is the means by which the FAA satisfies this obligation.

Another commenter suggested that the AD compliance requirement be changed to split the compliance time, based on completion of a modification program. The commenter suggested that the AD require "partial compliance," such as an interim cursory check of the system, within 180 days; and "full compliance" upon completion of the "Phase II" modification program. The commenter considered that some operators will have difficulty in scheduling the "Phase II" modifications (which include the inspections required by the AD) within the time specified in the AD. The FAA does not concur with this proposal. The 180-day compliance time for the actions required by this AD was based on allowing for a reasonable amount of time to schedule an airplane for the modification, and is considered the maximum time permissible for an affected airplane to continue to operate prior to modification without compromising safety. If an individual operator can adequately justify an extension of the compliance time, the FAA will consider it under 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.

There are approximately 29 Gulfstream Model G-IV series airplanes

of the affected design in the world fleet. It is estimated that 26 airplanes of U.S. registry will be affected by this AD, that it will take approximately 80 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 \$83,200.

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:

Gulfstream: Applies to Model G-IV series airplanes, Serial Numbers 1060 through 1089, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent hazardous operation of the Avionics Standard Communication Bus (ASCB) during turbulent weather conditions (Instrument Meteorological Conditions), accomplish the following:

A. Within 180 days after the effective date of this AD, perform a detailed integrity test of the ASCB, in accordance with Gulfstream Aerospace Report No. GIV-GER-276, "ASCB Databus Cable, Coupler, and Connector Integrity Test: Phase II Incorporation," dated April 2, 1990. If defective ASCB connectors are found, prior to further flight, repair or replace all defective connectors in accordance with Gulfstream Aerospace Report No. GIV-GER-276, dated April 2, 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, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Gulfstream Aerospace Corporation, P.O. Box 2206, Savannah, Georgia 31402-2206. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Parkway, suite 210C, Atlanta, Georgia.

This amendment becomes effective April 22, 1991.

Issued in Renton, Washington, on March 7, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-6332 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-17-AD; Amendment 39-6944]

Airworthiness Directives; Lockheed Model L-1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Lockheed Model L-1011 series airplanes, which requires inspection of the aft pressure bulkhead, and repair, if necessary. This amendment is prompted by an incident in which the aft pressure bulkhead ruptured and resulted in decompression of the airplane. The rupture was attributed to a score on the bulkhead

that subsequently resulted in a fatigue crack. This condition, if not corrected, could result in structural damage to the aft pressure bulkhead and decompression of the fuselage.

EFFECTIVE DATE: April 3, 1991.

ADDRESSES: The applicable service information may be obtained from Lockheed Aeronautical Systems Company, 86 South Cobb Drive, Marietta, Georgia 30063, Attention: Commercial Order Administration, Dept 65-11, Building B-95, Zone 0577. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Augusto Coe, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring, Long Beach, California 90806-2425; telephone (213) 988-5225.

SUPPLEMENTARY INFORMATION: Recently, an operator of a Model L-1011 series airplane reported a rupture in the gore panel of the aft pressure bulkhead that occurred during flight. Oxygen masks were deployed during the ensuing emergency descent. The airplane made an uneventful landing, with no injuries to the passengers or crew. Inspection revealed an L-shaped crack of approximately 20 inches by 12 inches in the gore panel of the aft pressure bulkhead in the proximity of fuselage station 1817 at the fuselage floor level. The rupture, in the gore panel only, began at the aft edge of the inner gore doubler and extended circumferentially and aft; a piece of the gore panel was peeled back but still attached. Laboratory examination of the fractured surface indicated that crack initiation was due to a score that resulted in fatigue. This condition if not corrected, could lead to structural damage to the aft pressure bulkhead and decompression of the fuselage.

The FAA has reviewed and approved Lockheed Service Bulletin 093-53-263, dated February 27, 1991, which describes procedures to inspect/repair the gore panel at both the left and right aft side of the aft pressure bulkhead.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires a visual inspection to detect cracks in the gore panels of the aft pressure bulkhead, and repair, if necessary.

Since a situation exists that requires immediate adoption of this regulation, it

is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

This is considered interim action. The FAA may consider further rulemaking to require additional corrective action to ensure that the aft pressure bulkhead on the Model L-1011 series airplanes will not fail due to fatigue cracking.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Lockheed Aeronautical Systems Company:

Applies to all Model L-1011 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural failure of the aft pressure bulkhead, accomplish the following:

A. Except as provided in paragraph B. of this AD, within 30 days after the effective date of this AD, unless previously accomplished within the last 60 days, inspect the gore panels of the aft pressure bulkhead around the entire perimeter of the 1503618-145 (LH) and 1503618-143 (RH) reinforcing doublers, in accordance with Section 2. of the Accomplishment Instructions of Lockheed Service Bulletin 093-53-263, dated February 27, 1991.

B. For airplanes on which inspections of the aft pressure bulkhead have been accomplished in accordance with Lockheed Service Wire PSC/90-531176-OW, dated December 21, 1990, prior to the effective date of this AD: The remaining inspections required by paragraph A. of this AD may be deferred for a period not to exceed 3,000 landings following the effective date of this AD.

C. If cracks are found, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

D. An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Lockheed Aeronautical Systems Company, 86 South Cobb Drive, Marietta, Georgia 30063, Attention: Commercial Order Administration, Dept 65-11, Building B-95, Zone 0577. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective April 3, 1991.

Issued in Renton, Washington, on March 8, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.
[FR Doc. 91-6333 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-AAL-6]

Revocation of Shishmaref, AK, Transition Area and Establishment of the New Shishmaref, AK, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule revokes the Shishmaref, AK, Transition Area and establishes the New Shishmaref, AK, Transition Area. The closure of Shishmaref (SHH) airport and the establishment of the NDB RWY 5 Original and NDB RWY 23 Original Standard Instrument Approach Procedures to New Shishmaref (K09) airport necessitate revocation of the Shishmaref, AK, Transition Area and establishment of the New Shishmaref transition airspace at 700 feet above the surface so that aircraft conducting flight under instrument flight rules (IFR) would have exclusive use of that airspace when the visibility is less than 3 miles and thereby enhancing the safety of such operations. This action changes the New Shishmaref airport status from VFR to IFR.

EFFECTIVE DATE: 0901 u.t.c., May 30, 1991.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Airspace and Procedures Specialists (AAL-531), Air Traffic Division, Federal Aviation Administration, 222 West 7th Ave., Box 14, Anchorage, AK, 99513-7587, Telephone (907) 271-5898.

SUPPLEMENTARY INFORMATION:

History

On August 15, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke Shishmaref, AK, transition area and to establish the base of controlled airspace at 700 feet above the surface in a rectangular area 37 statute miles by 14 statute miles over the New Shishmaref, AK, airport (K09) (55 FR 33324). The proposed action was to establish the amount of controlled airspace necessary to contain approach procedures for aircraft departing from or executing a SIAP to the New Shishmaref Airport (K09), Shishmaref, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.181 of part 71 of the Federal Aviation Regulations was

republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the Shishmaref, AK, transition area and establishes the base of controlled airspace at 700 feet above the surface in a rectangular area 37 statute miles by 14 statute miles over the New Shishmaref airport (K09). This action establishes the amount of controlled airspace necessary to contain approach procedures for aircraft departing from or executing a SIAP to the New Shishmaref airport (K09), Shishmaref, AK, and changes the New Shishmaref airport status for VFR to IFR.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Shishmaref, AK [Removed]

New Shishmaref, AK [New]

That airspace extending upward from 700-foot above the surface within 4.5 miles south and 9.5 miles north of the Shishmaref NDB

(lat. 66°15'32" N., long. 166°02'59" W.) 057° bearing extending from the NDB to 18.5 miles northeast of the NDB; and within 4.5 miles south and 9.5 miles north of the Shishmaref NDB 242° bearing extending from the NDB to 18.5 miles southwest of the NDB.

Issued in Anchorage, Alaska on March 5, 1991.

Michael R. Thompson,

Acting Manager, Air Traffic Division.

[FR Doc. 91-6339 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 90-AWP-7]

Alteration of Jet Route J-8

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of J-8 located between Needles, CA, and Gallup, NM. The realignment of this jet route will improve the flow of traffic and the efficiency of operations between Needles, CA, and Gallup, NM. This action will reduce controller workload.

EFFECTIVE DATE: 0901 u.t.c., May 30, 1991.

FOR FURTHER INFORMATION CONTACT:

Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On November 13, 1990, the FAA proposed to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) to alter the description of J-8 located between Needles, CA, and Gallup, NM (55 FR 47341). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 75 of the Federal Aviation Regulations alters Jet Route J-8 located between Needles, CA, and Gallup, NM. The realignment of this

route will improve the flow of traffic between Albuquerque Air Route Traffic Control Center (ARTCC) and Los Angeles ARTCC by providing a more precise alternate means of navigation between Needles, CA, and Gallup, NM. The adjustment of this route is designed to reduce controller workload and coordination.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 75 of the Federal Aviation Regulations (14 CFR part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

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

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-8 [Amended]

By removing the words "via Winslow, AZ," and substituting the words "via Flagstaff, AZ;"

Issued in Washington, DC, on March 6, 1991.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-6337 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 95

[Docket No. 26497; Amdt. No. 362]

IFR Altitudes; Miscellaneous Amendments**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: April 4, 1991.**FOR FURTHER INFORMATION CONTACT:**

Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all

aircraft in if flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which

frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC on March 5, 1991.

Daniel C. Beaudette,*Director, Flight Standards Service.***Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 GMT:

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354, and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 362 EFFECTIVE DATE, APRIL 4, 1991

| FROM | TO | MEA | FROM | TO | MEA |
|---|---|---------------------|---|---|-------------------|
| §95.1001 DIRECT ROUTES-U.S. | | | §95.6088 VOR FEDERAL AIRWAY 88 IS AMENDED TO READ IN PART | | |
| ATLANTIC ROUTES | | | VINTA, OK FIX *2700 - MOCA | NARCI, OK FIX | *4500 |
| B520 | IS ADDED TO READ | | §95.6089 VOR FEDERAL AIRWAY 89 IS AMENDED TO READ IN PART | | |
| ST THOMAS, VI VOR/DME | SAINT MAARTEN, NA VOR/DME | 2700 MAA-45000 | DENVER, CO VORTAC | WENNY, CO FIX | 7300 |
| B646 | IS AMENDED TO DELETE | | §95.6101 VOR FEDERAL AIRWAY 101 IS AMENDED TO READ IN PART | | |
| EXTER, BF FIX *1200 - MOCA #NAVIGATION EQUIPMENT OTHER THAN LOW FREQUENCY REQUIRED BEYOND STOCK. | STOCK, BF FIX | #*2000 MAA-45000 | BURLEY, ID VORTAC *8600 - MCA REAPS FIX, NW BND | *REAPS, ID FIX | 7000 |
| §95.6006 VOR FEDERAL AIRWAY 6 IS AMENDED TO READ IN PART | | | §95.6123 VOR FEDERAL AIRWAY 123 IS AMENDED TO READ IN PART | | |
| EMPYR, NY FIX NANCI, NY FIX | NANCI, NY FIX LA GUARDIA, NY VOR/ DME | 2700 5000 | ROBBINSVILLE, NJ VORTAC MINKS, NJ FIX | MINKS, NJ FIX LA GUARDIA, NY VOR/ DME | 2700 5000 |
| §95.6010 VOR FEDERAL AIRWAY 10 IS AMENDED TO READ IN PART | | | §95.6132 VOR FEDERAL AIRWAY 132 IS AMENDED TO READ IN PART | | |
| STAFF, KS FIX | HUTCHINSON, KS VORTAC | 3700 | ORION, KS FIX *10000 - MRA **4200 - MOCA RANSO, KS FIX *3900 - MOCA | *RANSO, KS FIX | **10000 *10000 |
| §95.6013 VOR FEDERAL AIRWAY 13 IS AMENDED TO READ IN PART | | | §95.6157 VOR FEDERAL AIRWAY 157 IS AMENDED TO READ IN PART | | |
| CLEEP, TX FIX *2300 - MOCA | LEGGE, TX FIX | *5000 | ROBBINSVILLE, NJ VORTAC MINKS, NJ FIX | MINKS, NJ FIX LA GUARDIA, NY VOR/ DME | 2700 5000 |
| §95.6019 VOR FEDERAL AIRWAY 19 IS AMENDED TO READ IN PART | | | §95.6212 VOR FEDERAL AIRWAY 212 IS AMENDED TO READ IN PART | | |
| DENVER, CO VORTAC | WENNY, CO FIX | 7300 | NAVASOTA, TX VORTAC OSKER, TX FIX | OSKER, TX FIX LUFKIN, TX VORTAC | 3000 4000 |
| §95.6045 VOR FEDERAL AIRWAY 45 IS AMENDED TO READ IN PART | | | §95.6234 VOR FEDERAL AIRWAY 234 IS AMENDED TO READ IN PART | | |
| HENDERSON, WV VORTAC *9000 - MRA BREMN, OH FIX | *BREMN, OH FIX APPLETON, OH VORTAC | 3000 3000 | GABIE, KS FIX | HUTCHINSON, KS VORTAC | 3700 |

| | | | | | |
|--|----|-----|--|----|-----|
| FROM | TO | MEA | FROM | TO | MEA |
| §95.6306 VOR FEDERAL AIRWAY 306 IS AMENDED TO READ IN PART | | | §95.6445 VOR FEDERAL AIRWAY 445 IS AMENDED TO READ IN PART | | |

| | | | | | |
|-------------------------------|---------------|-------|--------------------------------|---|--------------|
| GOMER, TX FIX *2300 - MOCA | CLEEP, TX FIX | *5000 | EMPYR, NY FIX NANCI, NY FIX | NANCI, NY FIX LA GUARDIA, NY VOR/ DME | 2700 5000 |
|-------------------------------|---------------|-------|--------------------------------|---|--------------|

§95.6321 VOR FEDERAL AIRWAY 321
IS AMENDED TO READ IN PART

§95.6500 VOR FEDERAL AIRWAY 500
IS AMENDED TO READ IN PART

| | | | | | |
|--|-----------------------------|------|--|----------------|---------|
| ROCKET, AL VORTAC | SHELBYVILLE, TN VOR/ DME | 3000 | DERSO, ID FIX *12500 - MCA SOLDE FIX, E BND *12500 - MCA SOLDE FIX, W BND **9200 - MOCA | *SOLDE, ID FIX | **12500 |
| §95.6433 VOR FEDERAL AIRWAY 433 IS AMENDED TO READ IN PART | | | SOLDE, ID FIX | *REAPS, ID FIX | **12500 |
| GRITY, NJ FIX | LA GUARDIA, NY VOR/ DME | 5000 | *9500 - MCA REAPS FIX, E BND *9500 - MCA REAPS FIX, W BND **8000 - MOCA | | |

| | | | |
|-----------------------------------|----|-----|-----|
| FROM | TO | MEA | MAA |
| §95.7239 JET ROUTE NO. 239 | | | |

IS ADDED TO READ

| | | | |
|--------------------|---------------------|-------|-------|
| ATLANTA, GA VORTAC | MERIDIAN, MS VORTAC | 24000 | 45000 |
|--------------------|---------------------|-------|-------|

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT CHANGEOVER POINTS

| | | | |
|------|----|----------|------|
| FROM | TO | DISTANCE | FROM |
|------|----|----------|------|

V-113

IS AMENDED BY ADDING

| | | | |
|------------------|--------------------|----|-------|
| BOISE, ID VORTAC | SALMON, ID VOR/DME | 38 | BOISE |
|------------------|--------------------|----|-------|

V-212

IS AMENDED TO DELETE

| | | | |
|---------------------|-------------------|----|----------|
| NAVASOTA, TX VORTAC | LUFKIN, TX VORTAC | 60 | NAVASOTA |
|---------------------|-------------------|----|----------|

V-444

IS AMENDED TO READ IN PART

| | | | |
|-------------------|------------------|-----|--------|
| BURLEY, ID VORTAC | BOISE, ID VORTAC | #95 | BURLEY |
|-------------------|------------------|-----|--------|

#COP UTILIZES POCATELLO VORTAC 269M RAD

14 CFR Part 97

[Docket No. 46494; Amdt. No. 1447]

Standard Instrument Approach Procedures; Miscellaneous Amendments**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

EFFECTIVE DATE: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards

Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these

SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference. Issued in Washington, DC on March 1, 1991.

Thomas C. Accardi,
Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective May 30, 1991

Kaunakakai, Molokai, HI—Molokai, VOR or TACAN-A, Amdt 13

Hancock, MI—Houghton County Memorial, VOR RWY 13, Amdt. 14

Hancock, MI—Houghton County Memorial, VOR/DME RWY 13, Amdt. 1, CANCELLED

Hancock, MI—Houghton County Memorial, VOR RWY 25, Amdt. 16

Hancock, MI—Houghton County Memorial, VOR/DME RWY 25, Amdt. 1, CANCELLED

Hancock, MI—Houghton County Memorial, VOR RWY 31, Amdt. 13

Hancock, MI—Houghton County Memorial, VOR/DME RWY 31, Amdt. 1, CANCELLED

Hancock, MI—Houghton County Memorial, LOC/DME BC RWY 13, Amdt. 10

Hancock, MI—Houghton County Memorial, NDB RWY 31, Amdt. 10

Hancock, MI—Houghton County Memorial, ILS RWY 31, Amdt. 11

Alliance, NE—Alliance Muni, VOR RWY 12, Amdt. 2

Hastings, NE—Hastings Muni, VOR RWY 4, Amdt. 4

Tekamah, NE—Tekamah Muni, VOR RWY 32, Amdt. 4

Antlers, OK—Antlers Muni, NDB RWY 35, Amdt. 1

Durant, OK—Eaker Field, NDB RWY 35, Amdt. 4

Sonora, TX—Sonora Muni, NDB RWY 18, Amdt. 2

Bremerton, WA—Bremerton National, NDB RWY 1, Amdt. 14

Bremerton, WA—Bremerton National, ILS RWY 19, Amdt. 11

Yakima, WA—Yakima Air Terminal, VOR-A, Amdt. 6

Yakima, WA—Yakima Air Terminal, VOR/DME or TACAN RWY 27, Amdt. 7

Yakima, WA—Yakima Air Terminal, LOC/DME BC-B, Amdt. 2

Yakima, WA—Yakima Air Terminal, ILS RWY 27, Amdt. 26

Effective May 2, 1991

Orlando, FL—Orlando Executive, LORAN RNAV RWY 25, Amdt. 2

Atlanta, GA—Fulton County Airport-Brown Field, ILS RWY 8, Amdt. 15

Jesup, GA—Jesup-Wayne County, NDB RWY 28, Amdt. 1

Chicago/Aurora, IL—Aurora Muni, VOR-A, Amdt. 1

Chicago/Aurora, IL—Aurora Muni, VOR RWY 36, Amdt. 1

Chicago/Aurora, IL—Aurora Muni, ILS RWY 9, Amdt. 1

Chicago/Aurora, IL—Aurora Muni, RNAV RWY 27, Amdt. 1

Muscatine, IA—Muscatine Muni, VOR RWY 23, Amdt. 6

Muscatine, IA—Muscatine Muni, NDB RWY 5, Amdt. 12

Muscatine, IA—Muscatine Muni, RNAV RWY 23, Orig., CANCELLED

Muscatine, IA—Muscatine Muni, RNAV RWY 23, Orig.

Brainerd, MN—Brainerd-Crow Wing County/Walter F. Wieland Field, VOR/DME RWY 12, Amdt. 8

Brainerd, MN—Brainerd-Crow Wing County/Walter F. Wieland Field, VOR RWY 30, Amdt. 12

Grand Island, NE—Central Nebraska Regional, VOR RWY 17, Amdt. 22

Mount Holly, NJ—South Jersey Regional, VOR RWY 26 Amdt. 2

Teterboro, NJ—Teterboro, VOR/DME RWY 24, Amdt. 3

Aurora, OR—Aurora State, VOR/DME-A, Amdt. 2

Aurora, OR—Aurora State, NDB RWY 17, Amdt. 1

Lawrenceburg, TN—Lawrenceburg Muni, NDB RWY 16, Amdt. 3

Effective April 4, 1991

Nashville, GA—Berrien Co., RADAR-1, Amdt. 1

Detroit, MI—Detroit Metropolitan Wayne County, VOR RWY 09L, Orig., CANCELLED

Detroit, MI—Detroit Metropolitan Wayne County, RNAV RWY 9, Amdt. 3, CANCELLED

Detroit, MI—Detroit Metropolitan Wayne County, RNAV RWY 21R, Amdt. 2, CANCELLED

Missoula, MT—Missoula International, ILS RWY 11, Amdt. 10

Fremont, NE—Fremont Muni, NDB RWY 13, Amdt. 5, CANCELLED

Fremont, NE—Fremont Muni, NDB RWY 13, Orig.

Wilmington, OH—Airborne Airpark, VOR RWY 4, Amdt. 3

Wilmington, OH—Airborne Airpark, NDB RWY 4, Orig.

Wilmington, OH—Airborne Airpark, ILS RWY 4, Orig.

Effective February 27, 1991

Roswell, NM—Roswell Industrial Air Center, NDB RWY 21, Amdt. 14

Roswell, NM—Roswell Industrial Air Center, ILS RWY 21, Amdt. 15

Effective February 7, 1991

Lancaster, PA—Lancaster, VOR RWY 8, Amdt. 19

Lancaster, PA—Lancaster, VOR/DME or TACAN RWY 8, Amdt. 3

[FR Doc. 91-6338 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960-AC58

Supplemental Earnings Reports

AGENCY: Social Security Administration.
ACTION: Final rules.

SUMMARY: In this regulation we are amending our rules on requesting a report of estimated earnings during a taxable year. Under the amended rules, we may request a beneficiary to estimate his or her earnings for the current or next taxable year. If we request an estimate and the beneficiary fails to comply, we will assume that his or her earnings for the current or the next taxable year will be the same as those for the preceding taxable year and

suspend payment of benefits as appropriate. The purpose of these rules is to ensure that a beneficiary's benefits are withheld at the same time he or she is receiving earnings.

DATES: These rules are effective March 18, 1991.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Room 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-8471.

SUPPLEMENTARY INFORMATION: Under section 203(h)(3) of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) may suspend payment of old-age, dependents, and survivors benefits to a beneficiary if the Secretary has information that the beneficiary's earnings for any taxable year are expected to be enough to cause deductions from his or her benefits under section 203(b) of the Act. The Secretary is further authorized under section 203(h)(3) of the Act to request a beneficiary to declare his or her estimated earnings for a taxable year and to furnish any other earnings information that the Secretary may specify. If a beneficiary does not comply with this request, the Secretary may suspend the payment of benefits.

The legislative history of section 203(h)(3) of the Act indicates that Congress intended to ensure, to the extent possible, that an individual's loss of benefits would occur at the same time he or she was receiving earnings and to prevent the loss of benefits from occurring at a time when the individual might no longer be receiving earnings. Congress subsequently amended section 203 of the Act, noting that the then existing statute did not require beneficiaries to file earnings reports until the close of the calendar year. H.R. Rep. No. 98-861, 98th Cong., 2d Sess. 1387 (1984). The legislative history of this amendment also notes that the purpose of the amendment, codified as section 203(h)(4) of the Act, was to improve the enforcement of the earnings test by requiring the Secretary to implement procedures for obtaining earnings reports earlier and to make earlier adjustment of benefit amounts on account of excess earnings.

Section 203(h)(4) of the Act specifically directs the Secretary to develop and implement procedures to avoid paying more than the correct amount of benefits as a result of a beneficiary's failure to comply with the Secretary's request that he or she file a correct report or estimate of earnings. Under section 203(h)(4) of the Act, the

procedures may include identifying categories of individuals who are likely to be paid more than the correct amount of benefits and requesting that they estimate their earnings more frequently than other beneficiaries who are subject to deductions due to their earnings.

In the process of implementing section 203(h)(4), we learned that beneficiaries whose estimates of earnings for the current year are more than the exempt amount for that year (see § 404.430) sometimes underestimate or fail to report their earnings for the next year. We, therefore, in the second half of a taxable year ask these beneficiaries to file an earnings estimate for their next taxable year. This category of beneficiaries is larger than the one described in the Notice of Proposed Rulemaking published on February 21, 1990 (55 FR 6010). In the preamble of that publication, we described the category of beneficiaries who are asked to file earnings estimates for the next taxable year as beneficiaries whose estimates of earnings for the current year exceeded the exempt amount for that year but were equal to or less than the prior year's earnings. However, under the authority of section 203(h)(4) of the Act, the category of persons we ask to file estimates of their next year's earnings includes other beneficiaries who often underestimate or fail to report earnings. If a beneficiary does not submit an estimate of future year earnings, we will use his or her estimate for the current year (or, if available, reported earnings) to determine whether to suspend payment of benefits for the next year.

Similarly, if we are aware that a beneficiary's earnings for the prior year may have exceeded the exempt amount, we will request from him or her a report of earnings for the prior year and an estimate of earnings for the current year. If the report does not include an estimate for the current year, we will use his or her earnings for the prior year to determine whether to suspend payment of benefits for the current year.

Response to Comments

On February 21, 1990, proposed rules were published in the *Federal Register* at 55 FR 6010 with a 60-day comment period. We received comments from an individual and from an organization.

The individual was concerned that the proposed rules do not include safeguards so that we do not stop payment of benefits to a person who is incapable of understanding or responding to our requests for a report of earnings. We have not revised the final rules to reflect this comment

because we believe that the process we use for selecting beneficiaries to whom we will send a request for a supplemental earnings report is in itself a safeguard. Under the process we use, we will request the report only from a beneficiary entitled to old-age, dependents, or survivors insurance benefits who has current or recent work experience and is within a category of beneficiaries who are likely to be paid more than the correct amount of Social Security benefits because of their wages or self-employment income. It is unlikely that a beneficiary who has such current or recent work experience will be incapable of understanding our request and thus be unable to respond to our request.

The organization suggested that the process of requesting supplemental earnings reports be implemented on a pilot basis. The process set out in the final rules is based on studies we conducted which showed that certain beneficiaries are likely to either underreport or fail to submit their estimate of earnings for a year. We have, therefore, been requesting these supplemental earnings reports for several years. Our evaluations have shown that the process is very effective in reducing overpayments of benefits. In addition, our evaluations have enabled us to refine our selection of beneficiaries from whom we request the reports.

The organization also suggested that we use plain language on the reporting form. We are continually working to improve the quality and content of all our correspondence with beneficiaries. The supplemental earnings report has been reviewed and approved by our staff which is responsible for making all our forms and notices understandable. Because of our ongoing efforts in this area, we appreciate the suggested report language provided by the organization.

The other suggestions of the organization did not pertain specifically to the proposed rules. We will, however, consider these suggestions in our continuing evaluation of the annual earnings reporting procedures.

Final Rules

We have not made any changes as a result of the comments on the proposed rules. We are, therefore, publishing these final rules as proposed.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291, because it is expected to reduce program and administrative

costs. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that this final regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities, because it affects only the suspension of payments from individuals' benefit amounts. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not needed.

Paperwork Reduction Act

The information collection requirements found within this regulation have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and have been given OMB Number 0960-0369. The public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Social Security Administration, ATTN: Reports Clearance Officer, 1-A-21 Operations Bldg., Baltimore, MD 21235, and to the Office of Management and Budget, Paperwork Reduction Project (0960-0369), Washington, DC 20503.

(Catalog of Federal Domestic Assistance Program Nos. 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-Age, Survivors, and Disability Insurance.

Dated: December 27, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: February 21, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, subpart E of part 404 of 20 CFR chapter III is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

1. The authority citation for subpart E continues to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205(a), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404 (a) and (e), 405(a), 422(b), 423(e), 424, 427, and 1302.

2. Section 404.455 is revised to read as follows:

§ 404.455 Request by Social Security Administration for reports of earnings and estimated earnings; effect of failure to comply with request.

(a) *Request by Social Security Administration for report during taxable year; effect of failure to comply.* The Social Security Administration may, during the course of a taxable year, request a beneficiary to estimate his or her earnings (as defined in § 404.429) for the current taxable year and for the next taxable year, and to furnish any other information about his or her earnings that the Social Security Administration may specify. If a beneficiary fails to comply with a request for an estimate of earnings for a taxable year, the beneficiary's failure, in itself, constitutes justification under section 203(h) of the Act for a determination that it may reasonably be expected that the beneficiary will have deductions imposed under the provisions described in § 404.415, due to his or her earnings for that taxable year. Furthermore, the failure of the beneficiary to comply with a request for an estimate of earnings for a taxable year will, in itself, constitute justification for the Social Security Administration to use the preceding taxable year's estimate of earnings (or, if available, reported earnings) to suspend payment of benefits for the current or next taxable year.

(b) *Request by Social Security Administration for report after close of taxable year; failure to comply.* After the close of his or her taxable year, the Social Security Administration may request a beneficiary to furnish a report of his or her earnings for the closed taxable year and to furnish any other information about his or her earnings for that year that the Social Security Administration may specify. If he or she fails to comply with this request, this failure shall, in itself, constitute justification under section 203(h) of the Act for a determination that the beneficiary's benefits are subject to deductions as described in § 404.415 for each month in the taxable year (or only for the months thereof specified by the Social Security Administration).

[FR Doc. 91-6393 Filed 3-15-91; 8:45 am]

BILLING CODE 4190-23-M

PANAMA CANAL COMMISSION

35 CFR Part 9

RIN 3207-AA 27

Predisclosure Notification Procedures for Confidential Commercial Information

AGENCY: Panama Canal Commission.

ACTION: Interim rule with request for comments.

SUMMARY: The interim rule implements Executive Order 12600 which requires Federal agencies to establish predisclosure notification procedures applicable to Freedom of Information Act requests for the release of records containing commercial or financial information that is privileged or confidential if the disclosure of these records can reasonably be expected to result in substantial competitive harm to the person who submitted the information. The procedures substantially conform to Executive Order 12600 52 FR 23781 (June 23, 1987).

DATES: The amendment made herein is effective March 18, 1991. Comments must be received on or before May 17, 1991.

ADDRESSES: Comments should be sent to Mrs. Carolyn H. Twohy, Chief, Administrative Services Division, Agency Records Officer, Panama Canal Commission, APO Miami 34011-5000 or to Ms. Barbara Fuller, Assistant to the Secretary for Commission Affairs, Panama Canal Commission, 2000 L Street NW., suite 550, Washington, DC 20036-4996.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Fuller, Assistant to the Secretary for Commission Affairs, Panama Canal Commission, telephone: 202-634-6441 or Mrs. Carolyn H. Twohy, Chief, Administrative Services Division, Agency Records Officer, Telephone in Balboa Heights, Republic of Panama: 011-507-52-7757.

SUPPLEMENTARY INFORMATION: The Panama Canal Commission is revising its regulations to provide predisclosure notification procedures under the Freedom of Information Act concerning confidential commercial information, pursuant to Executive Order 12600 of June 23, 1987. A final rule will be issued after consideration of comments received. This rule is not a major rule for the purposes of Executive Order 12291 and it will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act. This rule does not contain information collection requirements which require approval by

the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The publication of this notice is made in accordance with the Administrative Procedure Act, 5 U.S.C. 551, *et seq.*

List of Subjects in 35 CFR Part 9

Organization, functions and availability of records—Panama Canal Commission, Freedom of Information Act, Confidential business information.

For reasons set forth in the preamble, the Panama Canal Commission proposes to amend 35 CFR part 9, subpart A as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 is revised to read as follows:

Authority: 5 U.S.C. 552, as amended by Pub. L. 99-570, 100 Stat. 3207; 22 U.S.C. 3611; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Section 9.16 is added to subpart A as follows:

§ 9.16 Predisclosure notification procedures for confidential commercial information.

(a) *In general.* Confidential commercial information provided to the Panama Canal Commission by a submitter shall not be disclosed pursuant to a Freedom of Information Act (FOIA) request except in accordance with this section. The following definitions apply:

(1) *Confidential commercial information* means records provided to the Commission by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means any person or entity who provides confidential commercial information to the Commission. The term "submitter" includes, but is not limited to, corporations, state governments, and foreign governments.

(b) *Notice to submitters.* The Panama Canal Commission shall provide a submitter with prompt notice of receipt of a Freedom of Information Act request encompassing its confidential commercial information whenever required in accordance with paragraph (c) of this section, and except as provided in paragraph (g) of this section. The written notice shall either describe the exact nature of the information requested or provide copies of the records or portions of records containing the requested information.

(c) *When notice is required.* (1) For confidential commercial information submitted prior to January 1, 1988, the Panama Canal Commission shall provide a submitter with notice of receipt of a FOIA request whenever:

(i) the records are less than 10 years old and the information has been designated by the submitter as confidential commercial information;

(ii) The Panama Canal Commission has reason to believe that disclosure of the information could reasonably result in commercial or financial harm to the submitter; or

(iii) The information is subject to the prior express commitment of confidentiality given by the Commission to the submitter.

(2) For confidential commercial information submitted on or after January 1, 1988, the Commission shall provide a submitter with notice of receipt of a FOIA request whenever:

(i) The submitter has in good faith designated the information as commercially or financially sensitive; or

(ii) The Commission has reason to believe that disclosure of the information could reasonably result in commercial or financial harm to the submitter.

(3) Notice of a request for confidential commercial information falling within paragraph (c)(2)(i) of this section shall be required for a period of not more than ten years after the date of submission unless the submitter requests, and provides acceptable justification for, a specific notice period of greater duration.

(4) Whenever possible, the submitter's claim of confidentiality shall be supported by a statement or certification by an officer or authorized representative of the company that the information in question is in fact confidential commercial or financial

information and that the information has not been disclosed to the public.

(5) When notice is given to a submitter under this section, the Commission shall at the same time provide written notice to the requester that it is affording the submitter a reasonable period of time within which to object to disclosure and that, therefore, there will be a delay in responding to the request because of the overseas location of the agency and the time requirements to obtain responses from the submitters.

(d) *Opportunity to object to disclosure.* (1) The notice required by paragraph (b) of this section shall afford a submitter ten (10) working days within which to provide the Commission with a detailed statement of any objection to disclosure. Such statement must specify all grounds for withholding information under any exemption of the Freedom of Information Act and, in the case of Exemption 4, must demonstrate why the information is contended to be a trade secret or commercial or financial information which is considered privileged or confidential and capable of causing competitive damage if disclosed. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the Freedom of Information Act.

(e) *Notice of intent to disclose.* The Commission will carefully consider the submitter's objections to release prior to determining whether or not to disclose the information. Whenever the Commission decides to disclose information over the objection of the submitter, the Commission will forward a written notice to the submitter which shall include:

(1) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(2) A description of the confidential commercial information to be disclosed; and,

(3) A specific disclosure date, which shall be ten (10) working days after the notice of the final decision to release the requested information has been mailed to the submitter.

(4) When notice is given to a submitter under this section, the Commission will notify the requester that such notice has been given to the submitter and the proposed date for disclosure.

(f) *Notice of lawsuit.* (1) Whenever a requester brings legal action seeking to compel disclosure of information covered by paragraph (c) of this section, the Commission shall promptly notify the submitter.

(2) Whenever a submitter brings legal action seeking to prevent disclosure of information covered by paragraph (c) of this section, the Commission shall notify the requester.

(g) *Exception to notice requirement.* The notice requirements of paragraph (c) of this section shall not apply if:

(1) The Panama Canal Commission determines that the information should not be disclosed;

(2) The information has been published or otherwise officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The information was acquired in the course of a lawful investigation of a possible violation of criminal law.

Dated: March 3, 1991.

Joseph J. Wood,

Director, Office of Executive Administration.
[FR Doc. 91-6317 Filed 3-15-91; 8:45 am]

BILLING CODE 3640-04-M

Proposed Rules

Federal Register

Vol. 56, No. 52

Monday, March 18, 1991

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 425

[Amdt. No. 3; Doc. No. 8273]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice to provide additional time for public comment.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes this notice to advise all interested parties that it is extending the time allowed for public comment on the Notice of Proposed Rulemaking, revising and reissuing the Peanut Crop Insurance regulations for the 1992 crop year (7 CFR part 425), published in the *Federal Register* on Wednesday, February 6, 1991, at 56 FR 4738. Comments and suggestions were originally requested by not later than March 8, 1991.

Since the original proposed rule publication FCIC received several requests for an extension of the comment date to allow as many interested parties the opportunity of comment. FCIC agrees with these requests and has determined that, since this notice does not add further proposals to the published proposed rule, this notice does not constitute an Additional Notice of Proposed Rulemaking for comment but is merely an extension of the time allowed for public notice of the original proposed rule for 30 days.

DATES: Written comments on the notice of proposed rulemaking published at 56 FR 4738 should be submitted not later than April 17, 1991, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: FCIC is seeking public comment on: (1) Eliminating the contract price election agreement option for additional peanuts; (2) eliminating the reduced production guarantee for unharvested acreage; and, (3) establish the lesser of 20 acres or 20% as a requirement to qualify for replant payment, and provide for payment on actual cost of replanting up to \$80.00 per acre for both quota and additional acreage. The intended effect of this rule is to make the replant payment equitable for quota and additional acreage; remove the per acre production guarantee reduction; and, preserve the integrity of the peanut program with respect to unnecessarily excessive indemnity payments. Comments supported by thorough analysis with supporting documentation and data will be especially helpful.

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

Done in Washington, DC on March 11, 1991.

Tim B. Witt,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 91-6306 Filed 3-15-91; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-50; Notice No. SC-91-2-NM]

Special Conditions: Learjet Inc., Model 31A Airplane; Lightning and High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Learjet Inc., Model

31A airplane. This airplane is equipped with high-technology digital avionics systems which perform critical or essential functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of lightning and high-intensity radiated fields (HIRF). This notice proposes additional safety standards which the Administrator considers necessary to ensure that the critical and essential functions that these systems perform are maintained when the airplane is exposed to lightning and HIRF.

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

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, attn: Rules Docket (ANM-7), Docket No. NM-50, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-50. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055-4056; telephone (206) 227-2145.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report

summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-50." The postcard will be date/time stamped, and returned to the commentator.

Background

On September 13, 1990, Learjet Inc., applied for a type certificate for their new Model 31A airplane. The 31A is a pressurized 10-passenger transport category airplane with a maximum takeoff gross weight of 15,500 pounds, (16,500 optional), maximum operating speed V_{MO}/M_{MO} is 325 KIAS/.81MI, and maximum operating altitude of 51,000 feet. It is powered by two Garrett TFE-731-2-3B turbofan engines mounted on the aft fuselage. This airplane incorporates a number of novel or unusual design features, such as digital avionics including, but not necessarily limited to, five tube electronic flight instrument system (EFIS), dual attitude and heading reference system (AHRS), dual Air Data Computers, dual Autopilot/Flight Directors, and digital electronic engine control (DEEC), which may be vulnerable to lightning and external high-intensity radiated fields (HIRF).

Type Certification Basis

Under the provisions § of 21.17 of the FAR, Learjet Inc., must show that the Model 31A meets the applicable requirements of Subchapter C in effect on the date of application for that certificate unless: (1) Otherwise specified by the Administrator; or (2) Compliance with later effective amendments is elected or required under § 21.17; and (3) Special conditions are prescribed by the Administrator.

Based on the provisions of § 21.17(a)(1), the proposed certification basis for the Model 31A is shown below:

Amendments 25-3, 25-7, 25-10, 25-12, 25-18, 25-21, and 25-30, plus § 25.955(b)(2) of Amendment 25-11, § 25.954 of Amendment 25-14, §§ 25.803(e), 25.811(f), 25.853(a), 25.853(b) and 25.855(a) of Amendment 25-15, § 25.1359 of Amendment 25-17, § 25.785(c) of Amendment 25-20, §§ 25.25, 25.113, 25.145, 25.251, 25.303, 25.305(b), 25.307(d), 25.331(a)(3), 25.335(b), 25.335(f), 25.337(b), 25.349(b), 25.351(a), 25.363, 25.395(a), 25.395(b), 25.471(a)(1), 25.471(a)(2), 25.473, 25.493(b), 25.499(b), 25.499(c), 25.499(d), 25.509(a)(3), 25.561(b)(3), 25.581, 25.607,

25.615, 25.619, 25.625, 25.629, 25.677, 25.697, 25.699, 25.701, 25.721, 25.723, 25.725, 25.727, 25.729, 25.733, 25.735, 25.865, 25.867, 25.871, 25.903(d), 25.934, 25.994, 25.1103(d), 25.1143(e), 25.1303(a)(1), 25.1303(a)(3), 25.1303(b), 25.1303(c), 25.1307, 25.1331, and 25.1585(c) of Amendment 25-23, §§ 25.1013(e), 25.1305(c)(4), and 25.1305(c)(6) of Amendment 25-36, §§ 25.45 through 25.75 deleted, 25.101, 25.161, 25.815, 25.1303(a)(2), 25.1322, 25.1403, and 25.1439 of Amendment 25-38, §§ 25.903(e), 25.939, and 25.943 of Amendment 25-40, § 25.1335 of Amendment 25-41, §§ 25.29, 25.143(b), 25.147, 25.177, 25.181, 25.201, 25.207, 25.233, 25.237, 255, and 25.703 of Amendment 25-42, § 25.1326 of Amendment 25-43, § 25.1329(h) of Amendment 25-46, § 25.253 of Amendment 25-54, §§ 25.33 and 25.961 of Amendment 25-57; FAR part 36 effective December 1, 1969, as amended at the time of certification, part 34 of the FAR effective September 10, 1990, as amended at the time of certification; Special Conditions No. 25-99-CE-14 (high altitude operation at 51,000 feet). The special conditions which may be developed as a result of this notice will form an additional part of the type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Model 31A because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2). In addition to the applicable airworthiness regulations and special conditions, the Model 31A must comply with the noise certification requirements of Part 36 and the engine emission requirements of Part 34.

Discussion

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with the new technology avionic systems. There are two regulations that specifically pertain to lightning protection; one for the airframe in general (§ 25.581), and the other for fuel system protection (§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic

systems from lightning. The loss of a critical function of these systems due to lightning would prevent continued safe flight and landing of the airplane.

Although the loss of an essential function would not prevent continued safe flight and landing, it would significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are proposed for the Model 31A which would require that the new electrical and electronic systems, such as the five tube electronic flight instrument system (EFIS), dual attitude and heading reference system (AHRS), dual Air Data Computers, Dual Autopilot/Flight Directors, and dual digital electronic engine control (DEEC), be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning and HIRF.

Lightning

To provide a means of compliance with the proposed special conditions, a clarification on the threat definition for lightning is needed. The following "threat definition," based on FAA Advisory Circular 20-136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the proposed lightning protection special condition.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in Advisory Circular (AC) 20-53A, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the airplane and its systems depend upon their installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be

conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke*: (Severe Strike—Component A, or Restrike—Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level; then

2. *Multiple Stroke Flash*: (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be

carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) the minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation; and,

3. *Multiple Burst*: (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of short duration, low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current

pulse observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of 24 random sets of 20 strokes each, distributed over a period of 2 seconds. Each set of 20 strokes is made up of 20 repetitive Component H waveforms distributed within a period of one millisecond. The minimum time between individual Component H pulses within a burst is 10µs, the maximum is 50µs. The 24 bursts are distributed over a period of up to 2 seconds according to the following constraints: (1) the minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H).

These components are defined by the following double exponential equation:

where:
 $i(t) = I_0(e^{-at} - e^{-bt})$
 t = time in seconds,
 i = current in amperes, and

| | Severe strike (Component A) | Restrike (Component D) | Multiple Stroke (½ Component D) | Multiple burst (Component H) |
|---|----------------------------------|----------------------------------|------------------------------------|----------------------------------|
| I_0 , amp = | 218,810 | 109,405 | 54,703 | 10,572 |
| a, sec ⁻¹ = | 11,354 | 22,708 | 22,708 | 187,191 |
| b, sec ⁻¹ = | 647,265 | 1,294,530 | 1,294,530 | 19,105,100 |
| This equation produces the following characteristics: | | | | |
| τ_{max} = | 200 KA | 100 KA | 50 KA | 10 KA |
| and | | | | |
| $(di/dt)_{max}$ (amp/sec) = | 1.4×10^{11} @t=0+sec | 1.4×10^{11} @t=0+sec | 0.7×10^{11} @t=0+sec | 2.0×10^{11} @t=0+sec |
| di/dt, (amp/sec) = | 1.0×10^{11} @t=.5µs | 1.0×10^{11} @t=.25µs | 0.5×10^{11} @t=.25µs | |
| Action Integral (amp ² sec) = | 2.0×10^6 | 0.25×10^6 | $.0625 \times 10^6$ | |

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as EFIS, ADC and AHRS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with

the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

| Frequency | Peak (V/M) | Average (V/M) |
|-----------------|------------|---------------|
| 10 KHz-500 KHz | 80 | 80 |
| 500 KHz-2 MHz | 80 | 80 |
| 2 MHz-30 MHz | 200 | 200 |
| 30 MHz-100 MHz | 33 | 33 |
| 100 MHz-200 MHz | 33 | 33 |
| 200 MHz-400 MHz | 150 | 33 |
| 400 MHz-1 GHz | 8,300 | 2,000 |
| 1 GHz-2 GHz | 9,000 | 1,500 |
| 2 Hz-4 GHz | 17,000 | 1,200 |
| 4 GHz-8 GHz | 14,500 | 800 |
| 6 GHz-8 GHz | 4,000 | 666 |
| 8 GHz- 12 GHz | 9,000 | 2,000 |
| 12 GHz-20 GHz | 4,000 | 509 |
| 20 GHz-40 GHz | 4,000 | 1,000 |

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S. It will also be adopted by the European Joint Airworthiness Authorities.

Conclusion: This action affects only certain unusual or novel design features on one model of airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 142 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Learjet Inc. Model 31A airplane:

1. Lightning Protection

a. Each new electrical and electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

b. Each essential function of new or modified electrical or electronic systems or installations must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

2. Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF)

Each new electrical and electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to externally radiated electromagnetic energy.

3. The Following Definitions Apply With Respect To These Special Conditions

Critical Function. Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition which would significantly impact the safety of the airplane or the ability of the flight crew to cope with adverse operating conditions.

Issued in Renton, Washington, on February 27, 1991.

Darrell M. Pederson,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-6342 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-19-AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which currently requires structural inspections and repair, or replacement, as necessary, to ensure continued airworthiness. This action would increase the number of candidate airplanes and expand the inspection area. This proposal is prompted by a structural re-evaluation which has identified certain significant structural components in which cracks, if allowed to grow undetected, would result in a

loss of structural integrity of the airplane.

DATES: Comments must be received no later than May 6, 1991.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, attention: Airworthiness Rules Docket No. 91-NM-19-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Dan R. Bui, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2775. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-19-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On February 25, 1988, the FAA issued AD 84-21-06 R1, Amendment 39-5813 (53 FR 6794, March 3, 1988), to require structural inspections and repairs, or replacement, as necessary, to ensure continued airworthiness, of the Structural Significant Items (SSI) listed in Boeing Document D6-37089, Revision B, dated February 18, 1987, "Supplemental Structural Inspection Document" (SSID). That action was prompted by a structural evaluation which identified certain significant structural components in which cracks, if allowed to grow undetected, would result in a loss of structural integrity of the airplane.

Since issuance of that AD, Boeing Model 737-200C series airplanes have been added to the candidate fleet of airplanes for which inspection is necessary in accordance with the SSID program. The incidence of fatigue cracks on these airplanes is expected to increase as the airplanes approach and exceed the manufacturer's original design life goal. A structural re-evaluation has identified certain significant structural components in this series airplane in which cracks, if allowed to grow undetected, would result in a loss of structural integrity.

The FAA has reviewed and approved Boeing Document D6-37089, "Supplemental Structural Inspection Document" (SSID), Revision C, dated January 1990, which includes Model 737-200C candidate airplanes, and expands damage tolerance rating (DTR) check form F-20 to include an internal inspection of the frame chord. Since, by definition, failure of an SSI can lead to structural failure, it is necessary that the maintenance program of the airplanes in the candidate fleet include adequate inspections of the SSIs.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 84-21-06 R1 with a new airworthiness directive that would require structural inspections and repair or replacement, as necessary, to ensure continued airworthiness, in accordance with the document previously described.

While the proposed rule would allow up to one year for operators to incorporate the latest SSID revision into their maintenance programs, it is the FAA's intent that operators continue to comply with the earlier SSID revision currently referenced in the existing AD until the latest revision is incorporated.

There are approximately 153 Model 737 series airplanes of the affected design in the worldwide fleet. It is

estimated that 6 airplanes of U.S. registry would be affected by this AD, that it would take approximately 500 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$120,000.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-4933 (49 CFR 42556, October 23, 1984), as amended by Amendment 39-5813 (53 FR 6794, March 3, 1988), AD 84-21-06 R1, with the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes; listed in Section 3.0 of Boeing Document No. D6-37089, Revision C, "Supplemental Structural Inspection Document" (SSID) dated January 1990; certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure the continuing structural integrity of the Model 737 fleet, accomplish the following:

A. Within three months after April 8, 1988 (the effective date of Amendment 39-5813, AD 84-21-06 R1), incorporate a revision in the FAA-approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Document No. D6-37089, "Supplemental Structural Inspection Document" (SSID), Revision B, dated February 18, 1987. The required DTR value for each SSI is listed in the document. The revision to the maintenance program shall include and be implemented in accordance with the procedures in Sections 5.0 and 8.0 of Revision B of the SSID.

B. Within 1 year after the effective date of this amendment, incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the required DTR for each SSI listed in Boeing Document D6-37089, "SSID," Revision C, dated January 1990. The required DTR value for each SSI is listed in the document. The revision to the maintenance program shall include and be implemented in accordance with the procedures in Sections 5.0 and 8.0 of Revision C of the SSID.

C. Cracked structure must be repaired before further flight in accordance with an FAA-approved method.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Issued in Renton, Washington, on March 7, 1991.

Darrell M. Pedersen,
Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.

[FR Doc. 91-6340 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-25-AD]

Airworthiness Directives: Boeing Model 747 Series Airplanes Equipped with Pratt and Whitney PW4000 Engines; and Model 767 Series Airplanes Equipped with Pratt and Whitney PW4000 or General Electric CF6-80C2-B6F Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 747 and 767 series airplanes, which currently requires a limitation in the Airplane Flight Manual (AFM) that requires that the Engine Indication and Crew Alerting System (EICAS) Status Page be read, with all engines running, prior to each airplane departure. This procedure was prompted by the discovery that the "Engine Controls" advisory message does not function as intended. This condition, if not corrected, could result in overspeed or uncommanded shutdown of the affected engine or engines. This proposed action would require installation of new EICAS computers to provide proper message function and allow removal of the limitation from the AFM.

DATES: Comments must be received no later than May 6, 1991.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-25-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Seattle Aircraft

Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2686. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-25-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On May 22, 1989, the FAA issued AD 89-10-06, Amendment 39-6210 (54 FR 19875, May 9, 1989), applicable to certain Boeing Model 747 and Model 767 series airplanes, to require that the Engine Indication and Crew Alerting System (EICAS) Status Page be read, with all engines running, prior to each airplane departure. That action was prompted by the discovery that the "Engine Controls" advisory message did not function as intended. This condition, if not corrected, could result in engine overspeed or uncommanded shutdown of the affected engine or engines.

Since issuance of that AD, Boeing has identified a modification which involves the installation of new EICAS computers to provide proper message function. This modification has been incorporated in production in accordance with PRR 81831-21 for Model 747 airplanes and PRR B12047 for Model 767 airplanes.

The FAA has reviewed and approved Boeing Service Bulletin 747-31-2151, dated March 29, 1990, applicable to Model 747 airplanes equipped with PW4000 engines; Service Bulletin 767-31-0038, dated April 12, 1990, applicable to Model 767 airplanes equipped with General Electric CF6-80C2-B6F engines; and Service Bulletin 767-31-0033, dated May 31, 1990, applicable to Model 767 airplanes equipped with Pratt and Whitney PW4000 engines; which describe replacement of the EICAS with modified computers and an interface unit that provides proper message function.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 89-10-06 with a new AD that would require the installation of new EICAS computers in accordance with the service bulletins previously described. This proposal would permit removal of the currently required AFM limitation once the installation is accomplished.

Airplanes not listed in the service bulletins previously described were modified with an equivalent modification during production. Therefore, this proposal would permit the AFM limitation required by the existing AD to be removed from these airplanes.

There are approximately 22 Model 767 and 19 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 2 Model 767 and 10 Model 747 series airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to replace the components, and that the average labor cost would be \$40 per manhour. Replacement parts would be provided at no cost by the manufacturer. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$1,440.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February

26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6210 (54 FR 19875, May 9, 1989), AD 89-10-06, with the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes equipped with Pratt and Whitney PW4000 engines, and Model 767 series airplanes equipped with either Pratt and Whitney PW4000 or General Electric CF6-80C2-86F engines; certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent overspeed or uncommanded shutdown of an engine, accomplish the following:

A. Within the next 3 days after May 22, 1989 (the effective date of Amendment 39-6210), add the following to the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM: "Prior to each departure, with all engines running, refer to the EICAS status page and determine the dispatch capability of the aircraft."

B. Within the next 24 months after the effective date of this AD, replace the EICAS computers in accordance with the appropriate service bulletin listed below. After replacement of the EICAS computers in accordance with the specified service bulletins, the AFM Limitation required by paragraph A of this AD may be removed.

1. For Model 747 series airplanes listed in Boeing Service Bulletin 747-31-2151, dated March 29, 1990.

2. For Model 767 series airplanes equipped with Pratt and Whitney PW4000 engines listed in Boeing Service Bulletin 767-31-0033, dated May 31, 1990.

3. For Model 767 series airplanes equipped with General Electric CF6-80C2-86F engines

listed in Boeing Service Bulletin 767-31-0038, dated April 12, 1990.

C. For airplanes not subject to paragraph B of this AD, within the next 30 days after the effective date of this AD, remove the AFM limitation required by paragraph A of this AD.

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

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

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

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

Issued in Renton, Washington, on March 6, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-6341 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 453

Trade Regulation Rule: Funeral Industry Practices

AGENCY: Federal Trade Commission.

ACTION: Request for public comment on petition by New York State for statewide exemption from trade regulation rule.

SUMMARY: The Federal Trade Commission seeks public comment on the request by New York State for exemption from the Trade Regulation Rule concerning Funeral Industry Practices, 16 CFR part 453. If the petition is granted, the FTC Funeral Rule will not be in effect in New York, to the extent specified by the Commission, for as long as the state administers and enforces effectively the state requirements. To facilitate public consideration and comment, the Commission has summarized the information in the New York petition. The Commission invites public comment on the petition

generally and on certain questions specifically.

DATES: Public comments will be accepted until June 17, 1991.

ADDRESSES: Comments should be captioned: "New York Petition for Statewide Exemption from the Funeral Rule," FTC File No. 215-46, and should be submitted to the Office of the Secretary, room 159, Federal Trade Commission, Washington, DC 20580.

Copies of the petition can be obtained from the Public Reference Room, room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2222.

A copy of the petition is also available for inspection at the FTC New York Regional Office, 150 William Street, Suite 1300, New York, New York 10038.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-3010.

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 5, 1990, the New York State Department of Health filed a petition for exemption for New York State from the FTC's Funeral Rule, 16 CFR part 453.¹

Section 453.9 of the Funeral Rule provides:

If, upon application to the Commission by an appropriate state agency, the Commission determines that:

(a) There is a state requirement in effect which applies to any transaction to which this rule applies; and

(b) That state requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this rule; then the Commission's rule will not be in effect in that state to the extent specified by the Commission in its determination, for as long as the state administers and enforces effectively the state requirement.

Factors which will be considered by the Commission in determining whether an exemption is warranted include such things as the means available to the state to enforce its provisions, the existence of any private rights of action by an aggrieved consumer, and the scope and format of required price disclosures to funeral consumers.²

¹ The New York petition has been placed on the public record as Document No. XXIII-22, FTC File No. 215-46.

² Statement of Basis and Purpose, 47 FR 42260, 42287 (September 24, 1982).

Exemption proceedings are conducted pursuant to § 1.16 and subpart C, §§ 1.21-1.26 of the Commission's Rules of Practice. Additional procedures for public participation, such as oral hearings or a rebuttal comment period, may be scheduled if necessary for a full and fair presentation of significant factual issues.³ A determination as to whether such procedures will be necessary in this instance has not been made at this time. Any interested party may request that the Commission schedule such additional proceedings. Such requests should be sent to the Office of the Secretary and should set forth specific reasons why such additional proceedings are necessary to a full and fair presentation of relevant factual issues.

The Commission invites written public comment on the January 5, 1990, petition by New York State for exemption from the FTC Funeral Rule.

II. The New York Petition

A. Transactions Covered by the State Law

The FTC Funeral Rule applies to all funeral providers. A "funeral provider" is defined as "any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public."⁴ The requirements of the Rule apply to pre-need transactions, as well as to arrangements made at the time of a death.

The basis for this exemption petition is the New York Public Health Law, and regulations promulgated pursuant to the that law.⁵ This body of law governs the business of "funeral directing."⁶ Anyone engaged in the business of funeral directing in New York must be licensed by the state.⁷ The Commissioner of Health has the authority "to govern and regulate the conduct and transaction of the business and practice of funeral directing" and to promulgate rules and regulations necessary to the administration of the

Public Health Law.⁸ Under the regulations promulgated pursuant to this statutory authority, no person other than a licensed and registered funeral director is permitted to make arrangements on behalf of any funeral firm for the sale of funeral merchandise or services.⁹

The New York petition states that "[a]ny funeral directing transaction occurring in New York State which would be subject to FTC regulation would also be regulated by the New York State Department of Health, under Article 34 of the Public Health Law."

B. Protection Afforded by State Law

New York's first price itemization requirements was enacted by statute in 1964. Administrative regulations setting forth specific price itemization and disclosure requirements were first promulgated in 1968 and have been amended and expanded at various points since that time. The most recent amendments to these regulations become effective on April 1, 1987.

1. Telephone Price Disclosures

The requirements of the Funeral Rule and the New York regulation are virtually identical.¹⁰ Both require an affirmative disclosure that price information is available over the telephone, as well as the provision of information from the price lists (or other readily available sources) that is responsive to a question concerning prices or offerings.

2. Casket and Outer Burial Container Price Lists

Both the Funeral Rule and New York State require that these price lists be offered to people who inquire in person about these items.¹¹ However, the New York law requires more specific identification of the merchandise, including the supplier name and model name or number. In New York, casket descriptions must also include the species or wood, kind and gauge of metal or other construction material, and description of the interior. The outer receptacle list must include a description of the construction material for each container. In addition, New York requires a disclosure, very similar to that mandate by the FTC, explaining that such containers are not legally

required, but may be required by the cemetery.¹²

3. General Price List

Both the FTC and New York require that a general price list be given to individuals who inquire in person about funeral arrangements or the prices of goods and services.¹³ In both instances, the price list must be offered at the beginning of the discussion of funeral arrangements. However, the New York regulations, unlike the FTC Rule, prescribes a standardized format in order to facilitate consumer comparison of funeral home price lists. In addition, New York requires listing of all services and merchandise regularly offered by the funeral home. The FTC Funeral Rule requires listing of only those 17 items specifically mentioned in the Rule.¹⁴ Both the FTC Rule and the New York regulation require a disclosure at the beginning of the price list stating that the consumer may purchase only the items desired, except (if applicable) for a non-declinable professional services fee (or "arrangements" fee in New York's terminology).¹⁵

Under New York law, the general price list must first show the package prices for the alternative services of direct cremation and direct (or immediate) burial. Moreover, New York specifies the particular items to be included in each package service. New York also requires a disclosure concerning the availability of alternative containers for direct cremation that is substantially identical to that required by the FTC.¹⁶ In addition, New York requires a statement that "[t]he direct cremation prices do not include the crematory charge." Similarly, the direct burial package must include this statement: "The direct burial prices do not include cemetery charges."

Following the alternative services, the New York general price list must show the following items, in the specified order: transfer of remains to the funeral establishment, embalming, other

³ Staff Guidelines for State Exemption Petitions from the Funeral Rule, 50 FR 12521, 12525-26 (March 29, 1985). These Guidelines represent the views of the staff of the Bureau of Consumer Protection. The Guidelines were not approved or adopted by the Commission.

⁴ 16 CFR 453.1(j).

⁵ Article 34, Public Health Law (hereafter PHL), section 3400 *et seq.*; 10 NYCRR, parts 77, 78 and 79.

⁶ "Funeral directing" is defined as "the care and disposal of the body of a deceased person and/or the preserving, disinfecting and preparing by embalming or otherwise, the body of a deceased person for funeral services, transportation, burial or cremation; and/or funeral directing or embalming as presently known whether under these titles or designations or otherwise." PHL section 3400(d).

⁷ PHL section 3420.

⁸ PHL section 3401(1).

⁹ 10 NYCRR 77.7(a)(5).

¹⁰ 16CFR 453.2(b)(1); 10 NYCRR 79.1.

¹¹ 16 CFR 453.2(b) (2) and (3); 10 NYCRR 79.2 and 79.3. New York law uses the term "outer interment receptacle" rather than "outer burial container."

¹² 16 CFR 453.3(c)(2); 10 NYCRR 79.3.

¹³ 16 CFR 453.2(b)(4); 10 NYCRR 79.4

¹⁴ 16 CFR 453.2(b)(4)(i) and (iii); 10 NYCRR 79.4(e) and 79.4(e)(9). The 17 items enumerated in the FTC Funeral Rule are: forwarding remains; receiving remains; direct cremation; immediate burial; transfer of remains to funeral home; embalming; other preparation of the body; use of facilities for viewing; use of facilities for funeral ceremony; other use of facilities; hearse; limousine; other automotive equipment; acknowledgment cards; price range for caskets; price range for outer burial containers; and fee for services of funeral director and staff.

¹⁵ 16 CFR 453.4(b)(2)(i)(A); 10 NYCRR 79.4(d) (1) and (3).

¹⁶ 16 CFR 453.3(b)(2); 10 NYCRR 79.4(e)(1).

preparation of remains, arrangements, supervision of visitation, supervision of funeral service, use of facilities for visitation, use of facilities for funeral service, other use of facilities, livery (including hearse, alternative vehicle, limousine, passenger car, flower vehicle and any other livery service), casket price range, outer interment receptacle price range, any additional services or merchandise routinely offered by the funeral home, forwarding of remains receiving of remains, and cash advance items routinely available.

New York requires a disclosure concerning embalming that is very similar to that required by the FTC Funeral Rule except for its specific reference to New York law, which does not require this procedure under any circumstances.¹⁷ In addition, in conjunction with the item "other preparation of remains," New York requires the following statement: "Preparation of the remains, unless selected, is not required for direct cremation or for direct burial."¹⁸ Disclosures concerning the casket price list and outer burial container price list are identical to those required by the FTC.¹⁹

The New York regulation specifies what can and cannot be included in the charges for various items. For example, the charge for embalming must include any charge for use of the preparation room, and such a charge cannot be separately listed under use of facilities. Services offered under the category "other preparation of remains," must be specifically listed. If there is a charge for custodial care of the remains, the charge must be listed with a specific time interval when it will be incurred. Moreover, such a charge cannot be imposed on days when embalming or other body preparation occurs or when visitation or a funeral service is conducted. (A disclosure to that effect is also required in conjunction with such a charge.)

¹⁷ The New York disclosure reads as follows: "In New York State, embalming is not required by law. If you do not want embalming, you have the right to choose an arrangement which does not require you to pay for embalming such as direct cremation or direct burial. If you select certain funeral arrangements, such as viewing or an open casket funeral, embalming may be required by the funeral firm." 10 NYCRR 79.4(e)(3)(f). The FTC disclosure reads as follows: "Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement which does not require you to pay for it, such as direct cremation or immediate burial." 16 CFR 453.3(a)(2)(ii).

¹⁸ 10 NYCRR 79.4(e)(3)(ii).
¹⁹ 16 CFR 453.2(b)(4)(iii) (A)(1) and (B)(1); 10 NYCRR 79.4(e)(8) (i) and (ii).

The "arrangements" fee on the New York general price list is comparable to the fee for "services of funeral director and staff" under the FTC Rule.²⁰ However, New York specifies with greater particularity the services that may be included in this charge. If the charge is non-declinable, New York requires a disclosure to that effect that is substantially similar to the statement required by the Funeral Rule. Unlike the Funeral Rule, New York does not permit the alternative of including such a fee in the price of the casket. New York provides that charges for supervision of visitation and supervision of the funeral service must be separately listed.²¹

New York specifies that under the facilities category, there may not be a separate charge for common facilities, such as the parking lot and lounges. The Funeral Rule makes no mention of such charges. However, the Staff Compliance Guidelines state that basic facilities or overhead charges should either be included in the fee for professional services or allocated across all of the items on the general price list.²²

4. Cash Advance Items

Cash advance items are handled somewhat differently in New York than under the FTC Funeral Rule. New York law does not permit a mark-up on cash advance items, and requires that the funeral home deduct from the charge to the customer any rebate, commission, trade or volume discount, or other benefit received in connection with the purchase.²³ The general price list must include a list of items of service or merchandise routinely available as cash advance items, together with the statement: "Services and merchandise provided as cash advance items will be billed at the same amount paid by the funeral firm."²⁴ A disclosure concerning cash advance items is required to appear at the beginning of the New York general price list.²⁵ The wording is slightly different from that required by the FTC,²⁶ reflecting the difference in

²⁰ 16 CFR 453.2(b)(4)(iii)(C); 10 NYCRR 79.4(e)(4).

²¹ The Funeral Rule does not make reference to such a charge. However, the Staff Compliance Guidelines state that the charge for services provided in conjunction with any item required to be separately itemized on the general price list should be included in that item. 50 FR 28062, 28068-69, 28087 (July 9, 1985). Thus, under the Funeral Rule, charges for supervision of visitation and the funeral ceremony should be included in the use of facilities for those functions.

²² 50 FR at 28077.

²³ 10 NYCRR 77.12(k).

²⁴ 10 NYCRR 79.4(f)(1).

²⁵ 10 NYCRR 79.4(d)(2) and (4).

²⁶ 16 CFR 453.2(b)(4)(i)(D).

the way these items are handled under New York law.

If the New York funeral firm does charge a mark-up on an item purchased from a third party (or receives a rebate, discount or other benefit not passed on to the consumer), the item is no longer considered a cash advance item. It then becomes an offering of service or merchandise by the funeral home and must be listed under the heading of "additional services and merchandise" with a fixed price. A statement that "[t]he prices in this section include a charge for our services in buying these items" must also appear in conjunction with such items.²⁷ The regulations specify that certain services must be billed as cash advance items, and therefore no mark-up on such items is ever permitted.²⁸ These items include: cemetery and crematory charges, clergy honoraria, certified copies of the death certificate, escorts, chevra kadisha, public transportation by common carrier, road tolls, and telephone and telegraph charges.

5. Statement of Goods and Services Selected

Since 1964, the New York Public Health Law has required that at the time funeral arrangements are made, the funeral director or funeral firm shall provide a written statement showing the price of the funeral, including an itemized list of the services and merchandise furnished for such price and a statement of cash advance items.²⁹ Regulations of the Department of Health set forth detailed requirements for this itemized statement and make clear that the statement must show the price of each item of service and merchandise to be furnished, as well as the total price of the funeral.³⁰ A specific format for the statement is prescribed and a model set forth in the regulations.³¹ Items must be listed in the same order in which they are required to appear on the general price list. The signatures of both the funeral director making the arrangements and the customer are required on this document.³² At the conclusion of the statement there must appear a public notice informing the customer of the address of the New York Department of Health, Bureau of Funeral Directing.³³

²⁷ 10 NYCRR 79.4(e)(9).

²⁸ 10 NYCRR 79.4(f)(1).

²⁹ PHL § 3440-a.

³⁰ 10 NYCRR 78.1.

³¹ 10 NYCRR 78.2.

³² 10 NYCRR 78.1(b)(2) and (6).

³³ 10 NYCRR 78.2.

New York requires the following disclosure at the beginning of the itemized statement:

The following are the charges for the services, merchandise and livery you have selected. You will not be charged for any item you do not choose unless it is necessary because of other selections you have made. Any such charges are explained below.³⁴

The FTC Rule requires the following language:

Charges are only for those items that are used. If we are required by law to use any items, we will explain the reasons in writing below.³⁵

The difference in wording is explained by the fact that in New York there are no items of service or merchandise required by law. Like the Funeral Rule, New York also requires an explanation of the reason for an embalming charge or any charge made necessary by cemetery or crematory requirements.³⁶

New York also requires on the itemized statement the following language concerning the embalming charge:

If you select a funeral for which this firm requires embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you do not approve if you select arrangements such as direct cremation or direct burial. If we charge for embalming, we will explain why below.³⁷

The FTC disclosure is very similar. It reads:

If you selected a funeral which requires embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below.³⁸

Both the statute and the regulation specify that the statement shall be furnished "at the time funeral arrangements are made for the care and disposition of the body of a deceased person, * * *"³⁹ The reference to a "deceased person" may create ambiguity as to the application of this particular requirement in the pre-need situation where a death has not yet occurred.⁴⁰ The parallel provision of the

FTC Rule applies whether arrangements are made in a pre-need or an at-need situation.⁴¹ The New York Department of Health has been asked to clarify the interpretation of this portion of the regulation with regard to pre-need funeral arrangements.⁴²

6. Alternative Pricing Methods

New York State does not permit alternative pricing methods, except for package prices that are agreed upon between the funeral firm and a government agency or between the funeral firm and a non-profit corporation for its members or persons whose interests are represented by the corporation. In these limited situations, where package pricing is allowed and has been chosen, the itemized statement must be provided to the person making the arrangements and the package price must be broken down into its component parts.⁴³ Under the FTC Funeral Rule, package pricing is permitted with any customer provided that required price lists are also given and the statement of goods and service selected is presented at the conclusion of arrangements.⁴⁴

7. Misrepresentations

The FTC Funeral Rule prohibits misrepresentations concerning legal requirements or the practical need for embalming, a casket for direct cremation, or an outer burial container.⁴⁵ In addition, it prohibits a representation that any law or cemetery or crematory requires the purchase of any item of service or merchandise when this is not the case.⁴⁶ Finally, the Rule prohibits misrepresentation of the preservative or protective effects of any funeral goods or services.⁴⁷ Under the New York regulations, each of these misrepresentations would constitute misconduct.⁴⁸ The Public Health Law gives the Commissioner of Health authority to revoke or suspend a license, or take other disciplinary action, upon proof of acts of misconduct by a licensee.⁴⁹

apply to the pre-need situation. These lists must be presented to "individuals who inquire in person" about funeral arrangements, prices, services or merchandise. 10 NYCRR 79.2, 79.3, and 79.4.

⁴¹ 16 CFR 453.2(b)(5); Staff Compliance Guidelines, 50 FR 28062, 28063 (July 9, 1985).

⁴² Document No. XXIII-26, FTC File No. 215-46.

⁴³ 10 NYCRR 79.5.

⁴⁴ 16 CFR 453.2(b)(6).

⁴⁵ 16 CFR 453.3(a), (b) and (c).

⁴⁶ 16 CFR 453.3(d).

⁴⁷ 16 CFR 453.3(e).

⁴⁸ 10 NYCRR 77.12(o)(1), (2), (4), (5), and 77.12(s)(1) and (2).

⁴⁹ PHL section 3450(1)(f).

8. Required Purchase of Funeral Goods or Services

Both the FTC Rule and the New York regulations prohibit a requirement that a casket be purchased for direct cremation.⁵⁰ In addition, both require that an unfinished wood box or alternative container be made available for direct cremation if that service is offered by the firm.⁵¹

The Funeral Rule also makes it illegal for a funeral provider to condition the furnishing of any funeral good or service, to a person arranging a funeral, upon the purchase of any other funeral good or service (except as required by law or otherwise permitted by the Rule).⁵² The New York regulation contains similar language and makes any such required purchase an act of misconduct.⁵³ In addition, under New York law, it is misconduct for a funeral firm to charge a customer for any services not contracted for, or to fail to provide services that are contracted for. Similarly it is misconduct to charge for any item of merchandise not authorized by the customer or not actually furnished, or to make an unauthorized substitute for merchandise ordered.⁵⁴

9. Prior Approval for Embalming

The Funeral Rule provides that, except in certain very limited circumstances, a deceased person cannot be embalmed, for a fee, without prior approval of a family member or other authorized person.⁵⁵ Under New York regulations, it is misconduct to embalm, or furnish any other services or merchandise, without first having received explicit written or oral authorization from the customer.⁵⁶ Moreover, the funeral firm may not charge for any services for which the customer has not contracted.⁵⁷

10. Document Retention; Comprehension of Disclosures

Under the Funeral Rule, copies of price lists and the itemized statements given to each customer must be retained for one year from the date of distribution.⁵⁸ New York regulations

⁵⁰ 16 CFR 453.4(a)(1); 10 NYCRR 77.12(z). The only difference is that the FTC Rule covers crematories as well as funeral providers. The New York Public Health Law does not appear to cover crematories.

⁵¹ 16 CFR 453.4(a)(2); 10 NYCRR 77.12(z) and 79.6.

⁵² 16 CFR 453.4(b)(1).

⁵³ 10 NYCRR 77.12(aa).

⁵⁴ 10 NYCRR 77.12(h), (i), and (j).

⁵⁵ 16 CFR 453.5(a).

⁵⁶ 10 NYCRR 77.12(r).

⁵⁷ 10 NYCRR 77.12(h).

⁵⁸ 16 CFR 453.6.

³⁴ 10 NYCRR 78.2.

³⁵ 16 CFR 453.4(b)(2)(i)(B).

³⁶ 16 CFR 453.3(d)(2) and 453.5(b); 10 NYCRR 78.1(b)(5).

³⁷ 10 NYCRR 78.2.

³⁸ 16 CFR 453.5(b). Under the FTC Rule, this statement may appear on the itemized statement or on a contract or final bill.

³⁹ PHL section 3440-a; 10 NYCRR 78.1(a).

⁴⁰ The New York regulations pertaining to the general price list, casket price list and other burial container price list, on the other hand, clearly do

require four year retention of these documents.⁵⁹ Both the federal and state regulations provide that required disclosures must be made in "a clear and conspicuous manner."⁶⁰

11. Other Provisions of New York Law

New York law contains other consumer protection measures not specifically addressed by the Funeral Rule and not discussed above. Under New York regulations, it is misconduct for a funeral director to exercise undue influence on a customer, mislead a customer, or make any misrepresentation concerning the services or merchandise.⁶¹ It is also misconduct to suggest or imply that a customer's concern about prices or desire to save money is improper or inappropriate,⁶² or to verbally disparage the quality or appearance of merchandise or services which the firm has advertised or offered for sale.⁶³ New York funeral firms must display the less expensive items of merchandise advertised or offered for sale in the same manner as the more expensive items.⁶⁴ Obtaining custody of a deceased human body without written or oral customer authorization constitutes misconduct,⁶⁵ as does the failure to release a body upon the request of a customer.⁶⁶ In addition, retail prices of caskets, outer interment receptacles, or any other funeral merchandise, must be displayed on the items themselves or in conjunction with pictures of the merchandise.⁶⁷

C. Administration and Enforcement of State Law

The regulation of funeral directing in New York is carried out by health authorities through a full-time civil service staff.⁶⁸ Enforcement of the laws

and regulations governing funeral directing is the responsibility of the Bureau of Funeral Directing within the Division of Public Health Protection of the Department of Health.⁶⁹ The Bureau of Funeral Directing has 11.5 staff positions, consisting of a Bureau director, an assistant director, six field investigators, and 3.5 clerical positions. Legal support is provided by the Department of Health Division of Legal Affairs and by the New York State Department of Law. Funding for the Bureau of Funeral Directing for the fiscal year April 1, 1988 to March 31, 1989, was \$445,300.

The petition summarizes enforcement activity from 1975 through 1988 as follows:

| | |
|---|-----------|
| Funeral firm inspections..... | 22,087 |
| Notices of Noncompliance (Orders to Correct Violation(s)..... | 3,545 |
| Investigations..... | 1,154 |
| Enforcement actions completed..... | 311 |
| Fines assessed (number)..... | 282 |
| Fines assessed (dollar amount)..... | \$349,525 |
| Average fine..... | \$1,239 |
| Reprimands/warnings..... | 12 |
| Revocations or suspensions of licensure..... | 38 |

New York funeral firms must register with the state on a biennial basis. Routine inspections by Bureau of Funeral Directing investigators are conducted on a triennial basis. In addition, inspections are conducted when a new funeral firm registers, a funeral firm has a change of address, a complaint is received against a funeral firm or a licensee, or a prior inspection has identified violations. Inspections are recorded on a standardized inspection form.⁷⁰ They include inspection of all required documents, including the general price list, casket price list, outer interment receptacle price list, and the itemized statements for completed funeral arrangements. Deficiencies in these documents require the issuance of an Order to Correct Violation(s).⁷¹ Issuance of this order requires corrective action by the specified date and certification of corrective actions to the Bureau of Funeral Directing.

The Bureau of Funeral Directing has provided a summary of Orders to Correct Violation(s) issued during the months of April 1988 through December

1989.⁷² Nearly 800 orders were issued during this 21 month period. The orders contained a total of more than 2200 citations. Over two-thirds of these citations were for violations of the price itemization and disclosure requirements of state law. The citations ranged from serious violations, such as the failure to have a general price list, to technical deficiencies, such as failure to have an effective date on a price list. According to the petition, the more serious violations lead to further investigation and disciplinary action as necessary.

A funeral firm survey is also completed at the time of inspection.⁷³ The purpose of this survey is to collect data for the assessment of the need for future regulation or other Department of Health action. Among other things, the survey instrument includes information regarding the funding and management of pre-need accounts.

According to the petition, all complaints regarding funeral firms or licensees are investigated by the staff of the Bureau of Funeral Directing. The petition states that the majority of completed enforcement actions were the result of complaint investigation.

The enforcement provisions of the Public Health Law provide for a maximum civil penalty of \$1,000 per violation, or suspension or revocation of license, or other disciplinary action. The violator may also be found guilty of a misdemeanor.⁷⁴ Hearings to impose penalties are conducted by a Department of Health administrative law judge under procedures established pursuant to the New York Administrative Procedure Act. The final determination is made by the Commissioner of Health, and appeal can be made to the state judiciary. Charges against funeral directors are required to be supported by substantial evidence on the record.⁷⁵ An action for injunctive relief may be brought by the attorney general, upon his own information or upon the complaint of any person.⁷⁶

The requirements of New York law have been upheld when subject to judicial challenge. In *New York v. Garlick Parkside Memorial Chapels, Inc.*,⁷⁷ the New York Supreme Court

⁷² These documents have been placed on the public record as Document No. XXIII-27, FTC File No. 215-46.

⁷³ New York petition, exhibit 7.

⁷⁴ PHL section 3456(1).

⁷⁵ New York petition, page 7.

⁷⁶ PHL § 3457.

⁷⁷ 30 A.D. 2d 143, 290 N.Y.S. 2d 829 (1st Dept. 1968), *aff'd* 23 N.Y. 2d 754, 296 N.Y.S.2d 952, 244 N.E. 2d 467 (1968).

⁶⁹ Information concerning the administration and enforcement of state law is summarized at pages 4-8 of the New York Petition.

⁷⁰ New York petition, Exhibit 5.

⁷¹ New York petition, Exhibit 6.

⁵⁹ 10 NYCRR 78.1(d) and 79.7.

⁶⁰ 16 CFR 453.7; 10 NYCRR 79.8.

⁶¹ 10 NYCRR 77.12(b).

⁶² 10 NYCRR 77.12(i).

⁶³ 10 NYCRR 77.12(m).

⁶⁴ 10 NYCRR 77.12(n).

⁶⁵ 10 NYCRR 77.12(p).

⁶⁶ 10 NYCRR 77.12(q).

⁶⁷ 10 NYCRR 77.12(u) and (v).

⁶⁸ In addition, there is a funeral directing advisory board, created by section 3402 of the Public Health Law. The board consists of ten members appointed by the Commissioner of Health. Three members represent consumer interests; six are licensed funeral directors, undertakers or embalmers; and one member is an officer, director or employee of a cemetery corporation. The members of the board receive no compensation, other than reasonable expenses, and the function of the board is solely advisory. The board has no executive, administrative or appointive powers or duties.

upheld the requirement that funeral directors provide persons making funeral arrangements with a statement showing the price of each item of service and merchandise to be furnished. The defendant funeral home provided only a package funeral, showing a single price for the funeral followed by a list of services and merchandise to be furnished for the single price. The funeral home argued that this practice constituted compliance with the statutory itemization requirement. However, the court held that the defendant's practices were not in compliance with the statute, and that the intent of the legislature was that the consumer be furnished the cost of each item of service or merchandise, along with the total cost of the funeral. Thereafter, at least one court held that a non-itemized funeral services contract was unenforceable when the funeral home sued to recover the agreed price for funeral services rendered.⁷⁸

The enforcement procedures used by the Department of Health have been subject to judicial scrutiny, and, according to the petition, current enforcement standards used by the funeral directing program reflect relevant judicial decisions. Charges against funeral directors are required to be supported by substantial evidence on the record, and funeral directors must have adequate notice of types of activity which are considered to be misconduct.⁷⁹

III. Questions for Public Comment

1. Does the New York Public Health Law, and regulations promulgated pursuant to that law, apply to any and all transactions to which the FTC Funeral Rule applies?

2. Does New York law provide to the consumers of New York State an overall level of protection as great as, or greater than, the protection afforded by the FTC Funeral Rule?

3. Are the New York laws and regulations governing funeral transactions administered and enforced effectively?

4. Should the Commission grant the petition by the State of New York for statewide exemption from the Funeral Rule?

⁷⁸ *Parsky Funeral Home, Inc. v. Shapiro*, 88 Misc. 2d 566, 372 N.Y.S. 2d 288 (City Court of Rochester, 1975).

⁷⁹ See *Matter of Brewer Funeral Home, Inc. v. Axelrod*, 73 A.D. 2d 991, 423 N.Y.S. 2d 570 (3rd Dept. 1980) and *Matter of Joseph Guidetti v. Whalen*, 77 A.D. 2d 823 (1st Dept. 1980).

List of Subjects in 16 CFR Part 453

Funerals, Funeral homes, Price disclosures, Trade practices.

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 91-6377 Filed 3-15-91; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 228

Oil and Gas Resources

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The rules governing oil and gas leasing on National Forest System lands exclude roadless areas undergoing review pursuant to 36 CFR 219.17 from consideration for oil and gas leasing. This exclusion of some roadless areas from oil and gas leasing analysis is not required by statute or any other regulation and impedes full consideration of oil and gas leasing in revision of forest plans. Therefore, the Forest Service proposes to amend the oil and gas resources rule to remove this exclusion. Public comments are invited.

DATES: Comments must be received in writing by April 17, 1991.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2800), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

The public may inspect comments received on this proposed rule in the Office of the Director, Minerals and Geology Management Staff, 4th Floor, Central Wing, Auditors Building, 201 14th Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m. Those wishing to inspect comments are encouraged to call ahead (202) 453-8224 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Stanley Kurcaba, Minerals and Geology Management Staff (202) 453-8239.

SUPPLEMENTARY INFORMATION: On March 21, 1990 (55 FR 10443), the Secretary of Agriculture adopted a final rule governing issuance of Federal oil and gas leases and management of oil and gas operation on National Forest System lands. Section 228.102 of the rule requires the Forest Service to analyze lands under their jurisdiction that have not been previously analyzed for

leasing. Section 228.102(b) excluded five land categories from further review as being "legally unavailable for leasing." The first four of these categories (§ 228.102(b)(1)-(4)) are legally excluded from leasing by act of Congress or by action of the Secretary of the Interior. The fifth category, "roadless areas currently undergoing evaluation pursuant to 36 CFR 219.17" (§ 228.102(b)(5)), is not legally excluded from leasing by any act of Congress or Secretary of Interior action. The Forest Service should not have made this category of land unavailable for leasing in the final rule.

In promulgating the oil and gas rule, the Forest Service did not intend to make such areas unavailable for leasing analysis. Moreover, the agency concludes that there is no valid management reason to automatically exclude roadless areas which are undergoing evaluation pursuant to 36 CFR 219.17 from concurrent oil and gas leasing analysis.

It is essential that the Forest Service include the oil and gas resource as part of the total analysis performed on roadless areas in forest land and resource planning or forest plan revision pursuant to 36 CFR 219.17. This allows the Forest Service to give oil and gas resources the same consideration that other resources receive in framing a full range of alternatives for management of roadless areas for public review and for agency decisionmaking. It also allows the agency to fully inform the public of the consequences of foregone oil and gas production possibilities. Allowing leasing analyses to be conducted as part of roadless area evaluations pursuant to 36 CFR 219.17 would foster the goals of the National Environmental Policy Act by providing full consideration and disclosure of all the environmental consequences of proposals for the future management of roadless areas.

It is also essential, however, that the Forest Service have the ability to make project level land and resource management decisions during the life of a forest plan. The Forest Service does recognize, that in making such decisions, 36 CFR 219.17 requires that roadless areas be reviewed for wilderness consideration as part of the forest plan revision process. Therefore, in situations where a leasing analysis involves a roadless area and either (1) ongoing leasing analysis is not completed prior to initiation of the forest plan revision or (2) a leasing analysis becomes necessary during a forest plan revision, the leasing analysis will become a part

of the forest plan revision process. The Forest Service anticipates that the majority of the high priority leasing analyses scheduled pursuant to 36 CFR 228.102(b) will be completed prior to forest plan revisions.

This proposed rule, in and of itself, would not open roadless areas to oil and gas leasing; It merely deletes the exclusion of that category of lands from further review for leasing. Adoption of this proposed rule would allow oil and gas leasing analyses under 36 CFR 228.102 while the forest plan development or revision process is ongoing pursuant to 36 CFR 219.17. After roadless areas are analyzed, the Forest Service may consent to leasing with or without stipulations or may decide not to lease in those areas.

The Forest Service proposes to remove paragraph (b)(5) from § 228.102 from the oil and gas resources rule. Public comments are invited.

Regulatory Impact

This proposed rule has been reviewed under Executive Order 12291 and Department of Agriculture procedures, and it has been determined that this regulation would not be a major rule. This rule would not have an effect on the economy of \$100 million or more and, in and of itself, would not increase major costs to consumers, geographic regions, industry, or Federal, State, and local agencies. This rule would be procedural and would represent no change in current requirements on lessees, assignees, or operators. Therefore, it would not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete in foreign markets.

For the purposes of examining regulatory impacts, it should be emphasized that this rule affects only the timing and scheduling of oil and gas leasing analyses and, therefore, has no adverse economic effect. This rule would promote efficient oil and gas analyses. Consequently, this rule would certainly be beneficial to the general public, Federal Government, and the affected industry, but there is no way of estimating the economic benefit which would result from this procedural rule change.

It has also been determined that this rule would not have a significant economic impact on a substantial number of small entities because of its limited scope and application. Therefore, the rule is not subject to review under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Controlling Paperwork Burdens on the Public

This rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Therefore, the rule imposes no paperwork burden on the public.

Environmental Impact

This proposed rule would merely allow roadless areas undergoing evaluation pursuant to 36 CFR 219.17 to simultaneously be studied under § 228.102 of the final oil and gas resources rule. When a roadless area is included in a leasing area analysis, § 228.102 requires such analysis be conducted in compliance with the National Environmental Policy Act and its implementing regulations. This proposed rule does not alter that requirement. As such, this proposed rule is strictly procedural and would have no impact on the quality of the human environment, individually or cumulatively. Therefore, documentation of analysis of environmental effects of this rule in an environmental assessment or an environmental impact statement is not required.

List of Subjects in 36 CFR Part 228

Administrative practice and procedure, Environmental protection, Mines, National Forests, Oil and gas exploration, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

Therefore, for the reasons set forth in the preamble, the Forest Service proposes to amend subpart E of part 228 of chapter II of title 36 of the Code of Federal Regulation as follows:

PART 228—MINERALS

1. The authority for part 228 would continue to read as follows:

Authority: 30 Stat. 35 and 36, as amended (16 U.S.C. 478, 551); 41 Stat. 437, as amended, sec. 5102(d), 101 Stat. 1330-256 (30 U.S.C. 226); 61 Stat. 914, as amended (30 U.S.C. 352); and 94 Stat. 2400.

Subpart E—Oil and Gas Resources

§ 228.102 [Amended]

2. Amend § 228.102 by removing paragraph (b)(5).

March 7, 1991.

George M. Leonard,

Associate Chief.

[FR Doc. 91-6281 Filed 3-15-91; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[FRL-3871-7]

Requirements for Preparation, Adoption and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In the Notices Section of today's Federal Register, EPA is announcing changes to its policy statement on ozone control strategies and volatile organic compound (VOC) reactivity. That notice adds five halocarbon compounds and four classes of perfluorocarbons to the list of organic compounds which are negligibly reactive and thus may be exempted from State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone. This notice proposes to make regulatory changes to EPA's new source review rules and its Federal implementation plan (FIP) rules for the Chicago area consistent with this revised policy. In addition, a general definition of VOC is proposed to be added to 40 CFR part 51 (which would then also apply to 40 CFR part 52) which would have the effect of exempting the five halocarbons and four classes of perfluorocarbons from current new source review (NSR) requirements and the Chicago FIP rules. If the general definition is finally adopted, the policy statement will be withdrawn as moot.

DATES: Comments on this proposal must be received by May 17, 1991. A public hearing, if requested, will be held in Research Triangle Park, North Carolina. Requests for a hearing should be submitted to William Johnson by April 17, 1991, at the address below. Interested persons may call Mr. Johnson at (919) 541-5245 to see if a hearing will be held and the date and location of any hearing. Any hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below.

ADDRESSES:

Comments. Comments should be submitted in duplicate (if possible) to: Central Docket Section (LE-131), Attention: Docket No. A-90-27, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments should be strictly limited to the subject matter of this proposal, the scope of which is discussed below.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Mr. William Johnson, Air Quality Management Division (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5245.

Docket. Pursuant to sections 307(d)(1)(B), (I), and (N) of the Clean Air Act, 42 U.S.C. 7607(d)(1)(B), (I), and (N), this action is subject to the procedural requirements of section 307(d). Therefore, EPA has established a public docket for this action, A-90-27, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, room 4, 401 M Street SW., Washington, DC. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Kent Berry, Office of Air Quality Planning and Standards, Air Quality Management Division (MD-15), Research Triangle Park, NC 27711, phone (FTS) 629-5505 (919) 541-5505.

SUPPLEMENTARY INFORMATION: On June 28, 1989 (54 FR 27286), EPA promulgated changes to its new source review rules at 40 CFR 51.165 (Permit Requirements); 51.166 (Prevention of Significant Deterioration of Air Quality); Part 51, Appendix S (Emission Offset Interpretative Ruling); 52.21 (Prevention of Significant Deterioration of Air Quality); and 52.24 (Statutory Restriction on New Sources). One of the changes made was to amend the definitions of VOC in these rules to exempt the compounds EPA had previously determined to be negligibly reactive (see 42 FR 35314, July 8, 1977; 44 FR 32043, June 4, 1979; 45 FR 32424, May 15, 1980; 45 FR 48941, July 22, 1980; 54 FR 1987, January 18, 1989). On August 18, 1989, the Minnesota Mining and Manufacturing Company (3M) filed a petition for review (*Minnesota Mining and Manufacturing Company v. EPA*, (DC Circuit No. 89-1500)) of these rules for EPA's failure to add certain perfluorocarbon (PFC) compounds to the list of exempt compounds that are negligibly reactive. On February 16, 1990, 3M submitted a rulemaking petition requesting EPA to take a number of associated actions with regard to PFC's.

On December 27, 1989 (54 FR 53088) and June 29, 1990 (55 FR 26814), as a result of a court order, and Illinois' failure to adopt reasonably available

control technology (RACT) for VOC sources in the Chicago area as required by the Clean Air Act (Act), EPA published proposed and final Federal RACT rules for the Chicago area of Illinois (Cook, Dupage, Kane, Lake, McHenry, and Will Counties). The rulemaking contained a definition of volatile organic material or volatile organic compound which, in effect, exempted from that definition certain organic compounds that EPA had determined in previously-issued policy statements were negligibly reactive and do not contribute to violations of the NAAQS for ozone.

In the Notices Section of today's **Federal Register**, EPA is adding five halocarbon compounds and four classes of perfluorocarbon compounds to the list of organic compounds which are considered negligibly reactive, do not contribute to violations of the ozone NAAQS, and may be exempted from SIP control measures intended to attain and maintain the ozone NAAQS. The basis for this change is discussed in detail in that notice which is incorporated herein by reference. The compounds added to the negligibly-reactive list are listed in Table 1.

TABLE 1

| Compound | Chemical name | CAS No. |
|---------------|---------------------------------------|-----------|
| HCFC 124..... | Ethane, 2-chloro-1,1,1,2-tetrafluoro- | 2837-89-0 |
| HFC 125..... | Ethane, pentafluoro- | 354-33-6 |
| HFC 134..... | Ethane, 1,1,2,2-tetrafluoro- | 359-35-3 |
| HFC 143a..... | Ethane, 1,1,1-trifluoro- | 420-46-2 |
| HFC 152a..... | Ethane, 1,1-difluoro | 75-37-6 |

Four Classes of Perfluorocarbon Compounds

1. Cyclic, branched, or linear, completely fluorinated alkanes.
2. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
3. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.
4. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Proposed Actions

The EPA has determined that with respect to tropospheric ozone formation, the potential health and environmental impacts of the compounds that the Agency has determined to be negligibly-photochemically reactive (as reflected in today's revised policy statement) do not vary by location or use. Consequently, EPA believes that no purpose would be

served by leaving the reactivity issue open to debate in individual SIP proceedings with respect to the compounds listed in today's revised policy statement and this proposal. Therefore, this notice proposes to add a general definition of VOC to 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans) to be used in all cases for developing SIP's to attain the ozone NAAQS. The definition, to be codified at 40 CFR 51.100(s), tracks the definition of VOC currently promulgated in various sections of both parts 51 and 52 (§ 51.165, § 51.166; part 51, appendix S; § 52.21; § 52.24; § 52.741) by excluding the 15 chemicals EPA has previously determined to be negligibly reactive and by adding the chemicals listed in Table 1 to the negligibly-reactive list. The definition of VOC in each of the above sections is replaced by a reference to the general definition at § 51.100(s). Negligibly-reactive compounds may not be used for emissions netting (see, e.g., 40 CFR 51.166(b)(2)(i)), offsetting (see 40 CFR part 51, appendix S), or trading (see Emissions Trading Policy Statement, 51 FR 43814, December 4, 1986) with reactive VOC. Increases or decreases of the listed negligibly-reactive compounds are to be ignored completely in any NSR applicability determinations. If today's proposed general definition is finally adopted, EPA will then withdraw as moot its revised policy statement on VOC reactivity.

It is important to emphasize that today's proposal does not address the general question of VOC reactivity; it is strictly limited to whether EPA should codify in regulatory form its current reactivity policy as revised in a notice published elsewhere in today's **Federal Register**. This proposal does not extend to compounds not presently listed as negligibly reactive, and EPA will not respond to comments pertaining to other compounds.

The proposed revision to the Chicago FIP rules also proposes to debate a provision for a 1-year exemption for four perfluorocarbon classes at the 3M Bedford Park facility in Cook County, Illinois. The provision which is proposed to be deleted from 40 CFR 52.741(a)(3) states:

In addition, for the 3M Bedford Park facility in Cook County, the following compounds shall not be considered as volatile organic material or volatile organic compounds (and are, therefore, to be treated as water for the purpose of calculating the "less water" part of the coating or ink composition) for a period of time not to exceed one year after the date EPA acts on 3M's petition, pending as of the date promulgation of this rule, which seeks to

have these compounds classified as exempt compounds: Cyclic, branched, or linear, completely fluorinated alkanes, cyclic, branched, or linear, completely fluorinated ethers with no unsaturations, cyclic branched, or linear, completely fluorinated tertiary amines with no unsaturations, and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Once EPA has taken final action on the proposed revision to the Chicago FIP, the exemption for this facility will no longer be necessary since today's proposed amendment allows these compounds to be exempt at all facilities in the counties covered by the FIP rules.

This notice constitutes EPA's disposition of the 3M rulemaking petition as follows.

(1) Regarding 3M's request that EPA amend its NSR regulations so as to exclude the listed PFC's from the term "volatile organic compound" in those regulations and to do so through "direct final" rulemaking procedures, EPA denies the request to use "direct final" procedures and instead proposes to grant the substantive request by addressing it through notice-and-comment rulemaking. The EPA believes that it would be inappropriate to use "direct final" rulemaking procedures here primarily because there are issues upon which EPA anticipates public comment that might alter the final rule. Specifically, EPA has expressly solicited public comment upon EPA's proposed approach for addressing problems associated with compliance monitoring.

The EPA denies reconsideration of the amendments to the NSR regulatory definition of "volatile organic compounds" published on June 28, 1989 (54 FR 27299-300). In pertinent part, the rulemaking was limited to consideration of the reactivity of certain specified compounds, not including PFC's, in accordance with a settlement agreement in *Chemical Manufacturers Association v. EPA*, No. 79-1112 (DC Circuit). Accordingly, 3M's comments seeking to add PFC's to the list of negligibly-reactive compounds were beyond the scope of that rulemaking. For the same reason, it would be inappropriate to reconsider or otherwise reopen EPA's final action in that rulemaking. Rather, the proper forum for consideration of the PFC reactivity issue is 3M's rulemaking petition on the subject, which EPA is addressing in this notice and in a companion notice also published today.

(2) Regarding 3M's request that EPA and PFC's to the list of negligibly photochemically-reactive compounds under EPA's reactivity policy, today's revision of the reactivity policy addresses that request.

(3)(a) Regarding 3M's request that EPA exempt PFC's from the definition of VOC when it takes final action on its December 27, 1989 proposal to promulgate a FIP relating to VOC emissions in the Chicago area (54 FR 53080), since, as discussed above, EPA already has promulgated a final FIP for the Chicago area, EPA will treat that request as a petition for rulemaking which EPA proposes to grant by this notice proposing to amend the definition of VOC's in the Chicago plan by exempting PFC's.

(b), (c), (d) Regarding 3M's request that EPA make certain statements and clarifications regarding any pending or future proposal to approve State VOC regulations as part of a SIP, today's revision of EPA's reactivity policy statement will guide EPA's disposition of any pending SIP proposals at this time.

If EPA finally adopts today's proposed definition of VOC in 40 CFR part 51 (§ 51.100(s)), that regulation will govern EPA's consideration of all SIP's following the effective date of that regulation. As discussed elsewhere in this notice, EPA intends to withdraw as moot its reactivity policy following promulgation of the general regulatory definition of VOC in part 51.

While the stratospheric and tropospheric ozone impacts warrant the exemption of Table 1 compounds from ozone SIP's and associated NSR regulations, the Agency is concerned about the practical enforcement implications where these compounds are used in applications such as paints and other coatings. This is especially the case for the PFC classes which may cover thousands of individual compounds. The Agency's normal test method for determining compliance with coating emission limits (Method 24 in 40 CFR part 60) does not include an approach to adjust the results to account for negligibly-reactive, exempt compounds. Method 24 does contain provisions for adjusting for the mass of water in the volatile portion of a coating and while a specific methodology is not specified in Method 24, a similar adjustment for negligibly-reactive compounds is also acceptable. While an appropriate adjustment to the total VOC measured by Method 24 is possible if only a few specifically-known exempt compounds are in the coating, this may not be possible, or may be much more difficult, if the coating contains a large number of exempt compounds (or the chemical species are not precisely known) as could be the case where the PFC's are concerned. As a result, the proposed part 51 general definition of VOC includes a provision that allows

the Administrator or the State to require a source owner or operator, as a precondition to excluding these compounds for purposes of determining compliance, to provide monitoring methods and/or monitoring results demonstrating, to the satisfaction of EPA or the State, the amount of negligibly-reactive compounds in the source's emissions.¹ The Agency expects that it will be necessary to request such monitoring methods or monitoring results in only a small fraction of the cases where negligibly-reactive compounds will be excluded. As noted above, the situations where such information may be needed typically involve emission streams where (1) VOC's and negligibly-reactive compounds are mixed together and (2) would there are a large number of negligibly-reactive compounds or the chemical composition of some of the negligibly-reactive compounds is not known. The Agency is soliciting comments on the adequacy of this approach and, as provided in today's revised policy statement, will follow this approach in the interim as a matter of policy. In addition to the procedures for requesting a satisfactory compliance demonstration, where a State proposes to allow an individual source to use a test method for excluding negligibly-reactive compounds that is different from or not specified in the approved SIP, such change must be submitted to EPA for approval as a SIP revision. Under EPA's revised SIP processing procedures (54 FR 2214, January 19, 1989), EPA anticipates that such change can be acted upon expeditiously as a "Table 3" action.

The current VOC definitions in EPA's prevention of significant deterioration (PSD) rules at 40 CFR 51.166(b)(29) and § 52.21(b)(30) include the statement "unless the compound is subject to an emissions standard under sections 111 or 112 of the Act." This statement is proposed for deletion because a compound is already subject to regulation under PSD as a separate pollutant when it is regulated under the Act (including regulation under section 111), except for toxic air pollutants listed under revised section 112 (b)(1) of the Act.² Being regulated under the Act

¹ Note that in the situation where a State allows a source to exclude any of these negligibly-reactive compounds, EPA would retain independent authority to request a source to provide monitoring methods and/or monitoring results demonstrating, to the satisfaction of EPA, the amount of negligibly-reactive compounds in the source's emissions. This authority would exist even where that demonstration satisfied the State.

² Section 301 of the Clean Air Act Amendments of 1990, Public Law 101-549 (Nov. 15, 1990), revised

for PSD purposes generally does not change the determination that the compound is negligibly-photochemically reactive as a VOC; therefore, the compound should still remain on the exempt VOC list.

Pursuant to 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it relaxes current regulatory requirements rather than imposing new ones. This proposal was submitted to the Office of Management and Budget (OMB) as required by Executive Order (E.O.) 12291. Any written comments from OMB and any EPA responses to those comments are included in the Docket. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 [44 U.S.C. 3501 *et seq.*]. This notice has no Federalism implications under E.O. 12612 since it imposes no new requirements on States or sources. Instead, it provides additional flexibility to States to exempt certain compounds from ozone SIP control programs and provides similar exemptions involving FIP and Federal NSR rules.

Dated: March 6, 1991.

William K. Reilly,
Administrator.

For reasons set forth in the preamble, parts 51 and 52 of chapter I of title 40 of the Code of Federal Regulations are proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: Sections 101(b)(1), 110, 160–169, 171–178, and 301(a) of the Clean Air Act, 42 U.S.C. 7401(b)(1), 7410, 7470–7479, 7501–7508, and 7601(a).

2. Section 51.100 is amended by adding paragraph(s) to read as follows:

§ 51.100 Definitions.

(s) "*Volatile organic compounds (VOC)*" means any organic compound which participates in atmospheric photochemical reactions. This includes any such organic compound other than the following: methane; ethane; methylene chloride; 1,1,1-trichloroethane (methyl chloroform); trichlorotrifluoroethane (CFC–113)

(Freon 113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (CFC–22); trifluoromethane (FC–23); dichlorotetrafluoroethane (CFC–114); chloropentafluoroethane (CFC–115); dichlorotrifluoroethane (HCFC–123); tetrafluoroethane (HFC–134a); dichlorofluoroethane (HCFC–141b); chlorodifluoroethane (HCFC–142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC–124); pentafluoroethane (HFC–125); 1,1,2,2-tetrafluoroethane (HFC–134); 1,1,1-trifluoroethane (HFC–143a); 1,1-difluoroethane (HFC–152a); and perfluorocarbon compounds which fall into these classes—

- (1) Cyclic, branched, or linear, completely fluorinated alkanes,
- (2) cyclic, branched, or linear, completely fluorinated ethers with no saturations,
- (3) cyclic, branched, or linear, completely fluorinated tertiary amines with no saturations, and
- (4) sulfur containing perfluorocarbons with no saturations and with sulfur bonds only to carbon and fluorine.

These compounds have been determined to have negligible photochemical reactivity. For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in the approved State implementation plan (SIP). Where such a method also measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly-reactive compounds when determining compliance with an emissions standard. However, the Administrator or the State may require such owner or operator, as a precondition to excluding these compounds for purposes of determining compliance, to provide monitoring methods and monitoring results demonstrating, to the satisfaction of the Administrator or the State, the amount of negligibly-reactive compounds in the source's emissions. In addition to the procedures for requesting a satisfactory compliance demonstration, where a State proposes to allow the use of a test method for excluding negligibly-reactive compounds that is different from or not specified in the approved SIP, such change must be submitted to the Administrator for approval as a SIP revision.

3. Section 51.165 is amended by revising paragraph (a)(1)(xix) to read as follows:

§ 51.165 Permit requirements.

- (a) * * *
- (1) * * *

(xix) *Volatile organic compounds (VOC)* is as defined in § 51.100(s) of this part.

4. Section 51.166 is amended by revising paragraph (b)(29) to read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

(b) * * *
(29) *Volatile organic compounds (VOC)* is as defined in § 51.100(s) of this part.

5. Appendix S is amended by revising paragraph II.A.20 to read as follows:

Appendix S—Emission Offset Interpretative Ruling

II. * * *
A. * * *
20. *Volatile organic compounds (VOC)* is as defined in § 51.100(s) of this part.

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.

2. Section 52.21 is amended by revising paragraph (b)(30) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

(b) * * *
(30) *Volatile organic compounds (VOC)* is as defined in § 51.100(s) of this title.

3. Section 52.24 is amended by revising paragraph (f)(18) to read as follows:

§ 52.24 Statutory restriction on new sources.

(f) * * *
(18) *Volatile organic compounds (VOC)* is as defined in § 51.100(s) of this title.

3. Section 52.741 is amended by revising the definition of "volatile organic material (VOM), or volatile organic compound (VOC)", in paragraph (a)(3) to read as follows:

section 112 of the Act by adding a new section 112 (b)(6) that exempts the 189 toxic air pollutants listed in revised section 112 (b)(1) from the provisions of PSD.

§ 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will Counties.

- (a) * * *
(3) * * *

Volatile organic material (VOM) or volatile organic compounds (VOC) is as defined in § 51.100(s) of this title.

* * * * *

[FR Doc. 91-6216 Filed 3-15-91; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 300

[FRL-3913-6]

National Priorities List for Uncontrolled Hazardous Waste Sites; Deletion of a Site

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete sites from the National Priorities List. Request for comments.

SUMMARY: The Environmental Protection Agency (EPA) announces its intent to delete the Lansdowne Radiation Site from the National Priorities List (NPL) and requests public comment. As specified in appendix B of the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR part 300 (as amended), which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9605, it has been determined that all Fund-financed responses under CERCLA have been implemented. EPA, in consultation with the Commonwealth of Pennsylvania, has determined that no further cleanup is appropriate. The purpose of this notice is to request public comment on the intent of EPA to delete the Lansdowne Radiation Site.

DATES: Comments may be submitted on or before April 17, 1991.

ADDRESSES: Comments may be mailed to Victor Janosik, Remedial Project Manager, Superfund Branch, (3HW22), Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA 19107.

The Deletion Docket is available for inspection Monday through Friday at the following locations and times:

U.S. EPA Region III, Hazardous Waste Management Division, 841 Chestnut Street, Philadelphia, PA 19107 from 9 a.m. to 5 p.m. Lansdowne Borough Hall, 12 East Baltimore Avenue, Lansdowne, PA 19150 from 9 a.m. to 4 p.m.

Lansdowne Public Library, 55 S. Lansdowne Avenue, Lansdowne, PA 19050 Monday through Friday 9 a.m. to 3:30 p.m.; Monday through Thursday 7

p.m. to 9 p.m.; Saturday 10 a.m. to 3 p.m.; and Sunday 1 p.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT:

For background information on the site, contact Victor Janosik, (215) 597-8996.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA) Region III announces its intent to delete a site from the National Priorities List (NPL), appendix B, of the National Oil and Hazardous Substances Contingency Plan (NPL), 40 CFR part 300 (as amended), and requests comments on this deletion. The EPA identifies sites that appear to present a significant risk to human health or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be remediated using the Hazardous Substances Superfund. Any sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action.

EPA plans to delete the Lansdowne Radiation Site in the Borough of Lansdowne, Delaware County, Pennsylvania from the NPL.

The EPA will accept comments on this site for April 17, 1991.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses the Lansdowne Radiation Site and explains how the site meets the deletion criteria.

II. NPL Deletion Criteria

Amendments to the NCP published in the *Federal Register* on March 8, 1990, (55 FR 8666) establish the criteria the Agency uses to delete sites from the NPL. Section 300.425(e) of the NCP, 40 CFR 300.425(e), provides that releases may be deleted from or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required;
- (ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or
- (iii) The remedial investigation has shown that the release poses no

significant threat to public health or the environment and, therefore, taking of remedial measure is not appropriate.

In addition to the above, for all remedial actions which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow unlimited use and unrestricted exposure, it is EPA's policy that sites generally will not be deleted from the NPL until at least one five-year review has been conducted following completion of all remedial actions at a site (except operation and maintenance), any appropriate actions have been taken to ensure that the site remains protective of public health and the environment, and the site meets EPA's deletion criteria as outlined above. The remedial action implemented at the Lansdowne Radiation Site involved removal of all radium-contaminated debris and the excavation of soils to a maximum of 5 pico-Curies per gram (pCi/g) above background levels. As a result of implementing this remedy, hazardous substances, pollutants, and contaminants were removed from the site allowing for unlimited use and unrestricted exposure. Consistent with NCP § 300.430(f)(4)(ii), 40 CFR 300.430(f)(4)(ii), five year reviews are not necessary for this site.

Before deciding to delete a site, EPA will make a determination that the remedy, or the decision that no remedy is necessary, is protective of human health and the environment consistent with section 121(d) of the Superfund Amendments and Reauthorization Act (SARA) of 1986.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions if future conditions warrant such action. Section 300.425(e)(3) of the NCP, 40 CFR 300.425(e)(3), provides that Fund-financed actions may be taken at sites that have been deleted from the NPL.

III. Deletion Procedures

In the NPL rulemaking published on October 15, 1984 (49 FR 40320), the Agency solicited and received comments on whether the notice of comment procedures followed for adding sites to the NPL should also be used before sites are deleted. Comments were also received in response to the amendments to the NCP proposed on December 21, 1988 (53 FR 51394).

Deletion of a site from the NPL does not itself create, alter, or revoke any individual rights or obligations. The NPL is designed primarily for information purposes and to assist Agency management. As mentioned in section II of this notice, 40 CFR 300.425(e)(3) states

that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

For deletion of this site, EPA's Regional Office will accept and evaluate public comments before making the final decision to delete.

A deletion occurs when the Regional Administrator places a notice in the Federal Register. Generally the NPL will reflect deletions in the final update following deletion. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the intention to delete this site from the NPL.

Lansdowne Radiation Site, Borough of Lansdowne, Delaware County, Pennsylvania.

The Lansdowne Radiation Site consisted of a three-story duplex dwelling at 105-107 East Stratford Avenue, Lansdowne, Pennsylvania, the soils surrounding the dwelling, the municipal sewer line on East Stratford Avenue, several automobile garages and numerous incidental small areas all contaminated with radium.

During October through December 1984, EPA and Argonne National Laboratory personnel investigated the site and found elevated levels of radiation in the house, garages, the soils and the sewer line. Radiation levels found in the house during the investigation ranged as high as 900,000 disintegrations per minute per 100 square centimeters for beta/gamma radiation and 200,000 disintegrations per minute per 100 square centimeters for alpha radiation. Ambient radiation levels in the 105 residence were as high as 183 micro-Roentgens per hour (uR/h). Air samples revealed radon daughter Working Levels (WL) ranging from 21 milli-Working Levels (mWL) to 309 mWL inside the structure. These levels were well above the 20 mWL limit recommended in 40 CFR 192 (Radiation Protection Programs) and the 29 uR/h above-background standard also set in 40 CFR part 192 for occupied buildings.

Soil samples obtained on the site showed that radium concentrations were as high as 700 pico Curies per gram (pCi/g) and that a contamination penetrated into the soil to a depth of eight feet.

The Centers for Disease Control (CDC) advised EPA that long-term residents of the dwellings were endangered due to the elevated gamma radiation and radon daughter levels. The site was nominated by the EPA Region 3

Acting Regional Administrator for inclusion on the National Priorities List (NPL) on March 7, 1985 and was promulgated on the final NPL on September 1, 1985. Documents generated by the Argonne National Laboratory as a result of the investigation/Feasibility Study (RI/FS). These documents were placed in a repository for public review.

On September 22, 1986 the Regional Administrator approved a Record of Decision (ROD) which selected dismantlement of the contaminated structures, excavation of contaminated soil, removal of the contaminated sewer line, and offsite disposal of the radium-contaminated materials as the remedial action alternative.

Onsite remedial activities began in August 1988 and continued through July 1989. As a result of the remedial action, approximately 4109 tons of radium-contaminated soil and 1430 tons of contaminated rubble were generated. The contaminated rubble included 243 feet of sewer line which was removed from East Stratford Avenue. All radium-contaminated materials were shipped to an approved offsite disposal facility. No portion of the site contained radium contamination in excess of 5 pCi/g above the background level of 1.5 pCi/g at the end of the remedial action excavations. At this level the site is considered to be available for unrestricted use.

Site restoration activities included the replacement of the sewer line on East Stratford Avenue, backfill of excavated areas with clean soil, establishment of grass soil cover, rebuilding of two of the garages, planting of replacement trees and shrubs, resurfacing of East Stratford Avenue, and replacement of damaged sidewalks and curbing. Maintenance of the properties, including moving of grass and snow removal, has been assumed by the property owners.

EPA, with concurrence of the Commonwealth of Pennsylvania, has determined that all appropriate Fund-financed responses under the CERCLA at the Lansdowne Radiation Site have been completed and that no further cleanup is appropriate.

List of Subjects in 40 CFR part 30

Hazardous waste, oil pollution, superfund.

Dated: February 28, 1991.

Edwin B. Erickson,

Regional Administrator, Regional III.

[FR Doc. 91-6076 Filed 3-15-91; 8:45am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Certain Populations of the African Elephant and Revision of Special Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to reclassify most populations of the African elephant (*Loxodonta africana*) from threatened to endangered status. The proposal would classify all African elephants (including their parts and products) as endangered wherever found, except in Botswana, Zimbabwe, and South Africa, where they would remain threatened. The Service also at this time: (1) Withdraws its May 5, 1989, proposal (54 FR 19416) to amend its regulations found at 50 CFR 14.91, § 14.92, and § 17.3, and the African elephant special rule found at § 17.40(e), (2) proposes to amend its regulations found at 50 CFR 17.21; and (3) proposes to revise the African elephant special rule found at § 17.40(e). The Service seeks relevant data and comments from the public, and especially from authorities within African range states before preparing a final rule. This information will be evaluated, and the result of the analysis may lead to a final rule that differs substantively from this proposal.

DATES: Comments must be received by July 16, 1991. Public hearing requests must be received May 2, 1991.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Chief, Office of Scientific Authority; mail stop: Arlington Square, room 725, U.S. Fish and Wildlife Service; Washington, DC 20240. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in room 750, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (703-358-1708 or FTS 921-1708).

SUPPLEMENTARY INFORMATION:

Background

The continental population of the African elephant has diminished over

the last decade at a rate of about 8 percent per year, largely because of habitat fragmentation and illegal killing to satisfy a large world-wide demand for ivory. However, relatively large numbers of elephants still exist in available habitat scattered throughout their continental range. These populations, if properly managed, could provide sustainable elephant populations in balance with available habitat carrying capacity. The intent of the Service is to stop the illegal killing of elephants in the short-term and to promote conservation and the scientific management of the species in the long-term to benefit the species, local community development programs within range states, and biodiversity throughout the continent.

The current sub-Saharan range of the African elephant covers nearly 5.8 million square kilometers, an area about 75 percent of that of the coterminous United States. Principal habitats of the elephant consist of tropical rain forests, dry open woodlands, tall grass savannas, and low grass savannas. An estimate of the total population of the African elephant, prepared for delegates at the 7th meeting of the Conference of the Parties of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention), October 1989, suggested a population of 608,000 elephants still existed in Africa (Table 1). The short-term threat to the survival of many populations of African elephants has been poaching and the uncontrolled illegal trade in ivory (Ivory Trade Review Group, 1989). Efforts to control this threat include unilateral controls on commercial trade through the transfer of the African elephant to appendix I of CITES. Populations can be somewhat stabilized if the short-term threats are removed. The long-term threats to most populations involve the fragmentation and loss of habitat as human demands for agricultural, range and urban lands increase. Parker (1989) has shown a direct relationship between the contraction of elephant range in East Africa and expanding human populations from 1931 to 1985. The long-term preservation of elephants and elephant habitat will depend upon proper management and a recognition and commitment that elephants represent an important and unique natural resource which can provide economic advantages to range countries.

Petition Review

The Secretary of the Interior received a petition filed on behalf of the Humane Society of the United States, Animal Welfare Institute, International Wildlife

Coalition, Animal Protection Institute, Society for Animals, Inc., and supported by 32 other regional, national, and international conservation and animal welfare organizations on February 16, 1989, requesting the Service to reclassify the African elephant (*Loxodonta africana*) from threatened to endangered status. The Service made a 90-day finding on May 9, 1989, that the petition had presented sufficient information to indicate that the requested action may be warranted. This determination was announced on June 26, 1989, (54 FR 26812) and a status review was initiated. Following that review, the Service made its 12-month finding on February 16, 1990 (published on April 10, 1990, 55 FR 13299) that the requested action was warranted for populations throughout Africa except for populations in Botswana, South Africa and Zimbabwe.

The petition described significant reductions in elephant populations throughout Africa and argued that endangered status was required to halt the decimation of populations and to control the illegal ivory trade. Currently, several related actions occurred in 1989 to curtail the illegal trade in ivory. The President decided on June 5, 1989, to halt all imports of elephant ivory into the United States. The Service implemented this decision on June 9, 1989 (54 FR 23758), by imposing a moratorium on ivory imports from all ivory producing and intermediary countries under provisions of section 2202 of the African Elephant Conservation Act of 1988 at 16 U.S.C. 4201-4245 (AECA). This action halted import of all ivory products, except sport-hunted trophies under certain conditions, and antique ivory more than 100 years old, into the United States. Similar bans were enacted in other countries.

The United States, in concert with six other nations, proposed in May 1989 to transfer the African elephant from CITES appendix II to CITES appendix I. This proposal was adopted by the CITES Meeting of the Conference of the Parties in October 1989, halting all commercial trade in elephants and elephant products, including ivory, among non-reserving Party nations.

The petitioners also documented how species with low reproductive capabilities are susceptible to pressures of over-exploitation which can lead to extinction. The Service agrees that any population is subject to over-exploitation and that populations of the African elephant can be exploited to extinction. However, at this time, the Service believes that reclassification of all populations of the African elephant to endangered status seems

unwarranted because some populations are stable or increasing and seem to be adequately protected.

The transfer of the African elephant to CITES appendix I became effective on January 18, 1990. Information about any benefits accruing to the elephant by that transfer was not available by February 16, 1990, when the Service made its 12 month finding. The Service proposes to reclassify populations of elephants in most countries to endangered species status and to retain the populations in Botswana, Zimbabwe and South Africa as threatened. However, the Service emphasizes that it will be actively seeking additional information during the comment period, that all available information will be reviewed, and that such evaluation may lead to a final rule that may be substantively different from this proposal. In particular, the final rule may retain a threatened classification for additional populations of the African elephant; or the final rule may extend the endangered classification to additional populations of the African elephant.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened on the basis of one or more of the five following evaluation factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. Populations of elephants in the different range states were considered with regard to these five evaluation factors. The evaluation was made after reviewing current literature from many sources and the results from a questionnaire sent to range states in 1989. The latter was in response to a directive in paragraph (b) of section 2201 of the AECA to determine and evaluate how ivory producing countries established ivory quotas and abided by those quotas. Data describing the effects of (1) recent unilateral trade bans and (2) the transfer of the African elephant to CITES appendix I on the curtailment of illegal killing of elephants were not available

nor considered in the present evaluation.

Data about the area of elephant habitat in individual range countries and an estimate of numbers of elephants within those range countries are listed in Table 1. These numbers were developed by the Ivory Trade Review Group (1989) and were prepared for the Seventh Meeting of the Conference of the Parties of CITES in October 1989. The columns labeled A-D in Table 1 pertain to the above factors for listing species as either threatened or endangered according to the provisions of the Endangered Species Act. Factor E is discussed in the text but is not included in Table 1. The values (1-3) for each factor were developed as described below. Values were assigned to a matrix cell using the best information available. The Service intends to query range states during the comment period to obtain additional information before developing a final rule on the African elephant. New information and further evaluation during the comment period may lead to revisions in Table 1 and to differing interpretations of the data.

The summary information in Table 1 is interpreted in the following manner. Range countries that receive a value 1 for each of the criteria A-D have African elephant populations that are considered threatened. Range countries that have at least one value 2, but no value 3, for criteria A-D are considered endangered on the basis of our present information base. However, these populations would be considered threatened if additional data indicates that the threats have been eliminated. Range countries that have at least one value 3 for criteria A-D are considered endangered populations.

The five factors for consideration under the Act as they relate to the African Elephant are discussed below:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Several of the elephant populations listed in Table 1 are reasonably large and several range countries have extensive areas of habitat set aside in game management areas or national parks. Elephant populations would be considered as threatened in these range countries if illegal killing were curtailed and successful elephant and habitat management programs were implemented. The presence in range countries of extensive set aside areas that are managed as parks or game management areas receives a 1 under factor A in Table 1. The African elephant could be endangered because of habitat conditions if park lands and

game management areas have been planned but are not yet established or if the condition of set aside habitats is expected to appreciably deteriorate if present land use activities are not changed. This condition receives a 2 in Table 1. The elephant is considered endangered in a range country if the quantity of available habitat is perceived as limited, no lands have been set aside for elephant management, and if available habitat within the range country is becoming fragmented or is rapidly deteriorating in quality. This condition receives a 3 in Table 1.

Elephant populations in many range states are not endangered because of habitat quantity. Elephants in Equatorial Guinea, Guinea, Liberia, Mauritania, Somalia and Mali are considered endangered because parks or game management areas have not yet been established for conservation purposes. Some sources (e.g. Pitman, no date) state that a population of 2,000 elephants may be the smallest viable number in genetic terms and that such a minimal population may need at least 2000 km² of good habitat. The 2000 km² habitat area is considered minimal in this analysis so that any range country with less than 2000 km² in habitat received a 3. For example, the elephant population in Guinea Bissau is endangered because of inadequate total habitat. Other range countries, for example, Rwanda and Sierra Leone, have limited elephant habitats that are scattered and fragmented that endanger elephant populations.

The following synopsis describes the condition of habitats by region. Central Africa contains about 47 percent of the total available habitat in Africa and about 45 percent of the total population of African elephants (Table 1). Elephant habitats in central Africa are being impacted by man and his domestic animals even though habitat is not now a limiting factor to elephants in this region. Each of the central African countries has either established set aside areas or at least has described potential set aside lands on paper. Elephant habitats in the savanna zones frequently are deteriorating because of increased grazing pressures from domestic livestock and elephant habitats in the forest zone are subject to fragmentation and deterioration because of agricultural demands for lands. Extensive blocks of quality elephant habitat still exist in the Central African Republic and Zaire. The habitat in Gabon is still considered secure. Intensive efforts to promote good wildlife management would be particularly beneficial in areas where the elephant resources are still

extensive in Central Africa, for example in the Congo, Gabon and Zaire.

East Africa contains about 26 percent of the available habitat and 18 percent of the African elephant population (Table 1). Numerous or extensive parks and game reserves exist or are planned in Ethiopia, Kenya, Sudan and Tanzania. Elephant habitat seems limited in Uganda and Rwanda. Apparently, no park of reserve lands exist in Somalia. Burgeoning human populations appear to be adversely impacting elephant habitats like those in Ethiopia, Rwanda and Uganda. Domestic livestock are severely impacting elephant habitats in Somalia. Extensive habitats suitable for elephants and wildlife may still exist only in Tanzania, among the east African range states.

Southern Africa provides about 23 percent of the habitat of the African elephant and contains about 33 percent of the elephant population. Adequate habitat still exists in set aside lands, in Botswana, South Africa, Zimbabwe and Zambia. The degree of destruction, modification or curtailment of elephant habitat is little known in Angola and Mozambique. Burgeoning human populations and competition with domestic cattle are impacting some savannah habitats in this region. Elephants are largely confined to protected areas in Malawi and South Africa. Extensive areas of elephant habitat still exist in Zambia. The level of habitat management for the African elephant is highest in selected nations within the southern African region.

Western Africa provides about 5 percent of the potential habitat for the African elephant and contains about 3 percent of the African elephant population. The quality of information about the elephant and its habitat in western Africa is certainly the weakest for the four regions considered in this analysis (Table 1). Parks and management areas have apparently been established in Benin, Burkina Faso, Ghana, Ivory Coast, Niger, Nigeria, Senegal and Togo. Destruction, modification and curtailment of elephant range seems widespread in western Africa where range decertification, and conflicts with livestock are serious problems especially during the dry season. Fragmentation of habitats, conflicts with a burgeoning human population, and actual or potential problems associated with agriculture and logging impact elephant habitats in Ghana, Guinea, Ivory Coast, Liberia, Nigeria, Senegal and Sierra Leone. Only limited human impacts may have occurred to elephant habitat in Benin.

B. *Overutilization for Commercial, Recreational, Scientific or Educational Purposes.* Overutilization is used in this notice to mean a rate of take that will cause significant population declines because it is greater than that which will produce sustainable elephant populations. Values 1-3 for factor B in Table 1 are defined as follows: The African elephant is not considered endangered in a range country because of overutilization if that elephant population has not experienced significant decline and continues to remain stable or increases. In some few cases, the present elephant population may actually exceed present range carrying capacity. This condition receives a 1 in Table 1. The species is considered endangered in a range country and receives a value 2 for factor B if the elephant population was overutilized in the past but recent evidence suggests the illegal killing of elephants (the principal cause of overutilization) has been significantly reduced or is presently under control so the present population may be becoming stabilized. If new data indicates that such trends continue, these populations would be considered threatened under this factor. The species is endangered in a range country if it is still being overutilized or the population within the range country has been reduced to a low level. This condition receives a 3 in Table 1.

Two thousand elephants (Pitman, n.d.) is considered in this assessment to represent the minimal sustainable population. The African elephant is considered endangered in Equatorial Guinea, Rwanda, Uganda, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone and Togo on the basis of the present size of their elephant populations.

The illegal killing of elephants to satisfy a great worldwide demand for ivory has severely impacted and endangered many populations. Current population and tusk size data indicate an overall population decline. Many data sets indicating rates of population decline are anecdotal accounts of former populations and rather precise statements of present populations. Records of commerce in ivory indicated that the take of elephants in the 1970's and 1980's were at levels that could not be sustained by the continental elephant population.

Overutilization is both a cause for placing a population in an endangered status and a factor which if controlled could result in that population being retained in a threatened status. Most

populations of the African elephant are presently considered endangered because of overutilization (Table 1).

Central Africa. Elephant populations have generally declined throughout this region. Estimates of elephant populations have probably been more inaccurate in the forested regions of Central Africa than elsewhere. Recent improvements in methodologies may have accounted for increase in population estimates for some countries and masked the extent of decrease in other countries.

The elephant population may be rapidly declining in southwestern Cameroon because of poaching. The savanna population of elephants in the Central African Republic has been decimated by poaching. The elephant population in Chad apparently crashed during the recent period of civil strife and poaching continues. Elephants in the Congo appear to be declining in numbers because of poaching. At present, there appear to be inadequate manpower and resources to curtail that poaching. Trends and size of the elephant population in Equatorial Guinea are not known but the population may have suffered during recent civil strife. The elephant population in Gabon may still be extensive because of the inaccessibility of forest habitats. Zaire boasts a great potential habitat for elephants and wildlife although poaching may be inadequately controlled at the present time. Elephant populations in the Congo, Gabon and Zaire, if managed properly, could still represent significant wildlife resources for the central African region. Today, about three of every eight elephants in Africa may live within the borders of these three countries.

Eastern Africa. Populations of elephants in eastern Africa almost certainly have substantially decreased during the last two decades and are presently far below historical levels and, in many instances, even below present habitat carrying capacities. The precipitous declines in elephant populations throughout this region have been due almost entirely to poaching. Internal disturbances pose additional problems to the proper management of the elephant in some countries. Recent developments in Kenya and possibly Tanzania may help these populations become stabilized so they could recover with adequate management.

The elephant population in Ethiopia is greatly diminished since war and civil strife began because those populations have been severely poached. The elephant population in Kenya has been depleted by heavy poaching near the

Somali border. Recent efforts to reduce poaching include shoot-to-kill orders and a major restructuring of the wildlife department and of antipoaching forces. Adequate management of a much reduced elephant population in protected areas may presently be occurring. A small protected park herd is managed in Rwanda. The elephant population in Somalia may be one of those most at risk in all of Africa. It is rapidly diminishing, in conflict with man, and subject to heavy poaching pressures. The elephant population in the Sudan has also been greatly impacted by rampant poaching. One of every ten African elephants is found in Tanzania even though this population has been severely impacted by poaching. Recent innovative changes in management policy involving the sharing of potential revenues from sport-hunting with native Tanzanians and emphasizing a strong anti-poaching strike force may change the downward trend in elephant numbers and help to rehabilitate this elephant population. The elephant population in Uganda has suffered from poaching and political instability associated with civil strife and war.

Southern Africa. The management of elephant populations has been more extensive and successful in parts of southern Africa than elsewhere on the continent (Dublin, 1989). Elephant populations are stable or growing and are at or exceed range carrying capacity and elephant management goals in some wild areas in Botswana, South Africa and Zimbabwe. Populations in these countries have been able to sustain both any illegal as well as any legal harvest, and enforcement capabilities are believed sufficient to provide adequate protection for these populations. In addition, these countries are believed to presently have or are expected to have reasonable management programs. The prolonged civil war has been disastrous to elephant populations in Angola where the elephant has essentially received no protection. Limited protection and a major decline in elephant numbers have also occurred in Mozambique, which continues to experience a civil war.

The elephant population in Namibia is small but may be stable. It is unknown how the elephant will fare in the future in this emerging state. A major decline in elephant numbers has occurred in Zambia where poaching has taken a heavy toll on the population. Efforts are under way to control the illegal killing of elephants, but it is too early to evaluate the effectiveness of those efforts. A small stable elephant population occurs in Malawi.

Western Africa. The Service believes that elephant populations in western Africa are fragmented and small with only a few populations of viable size. Elephant populations in this region are threatened with encroachment by human activities and have also been impacted by poaching. The elephant generally fares poorly in western Africa (Table 1). The small elephant population in Togo may be the only population that can be considered stable rather than declining. Population trends in Burkina Faso, Mauritania, Senegal and Sierra Leone are unknown. Benin, Burkina Faso, Ghana and Togo have initiated programs to curtail the illegal killing of elephants.

A low level of poaching may have contributed to the slow decline of elephant numbers in Benin. Elephants may be being killed for meat rather than for ivory. An underfunded anti-poaching effort has been initiated in Ghana, but it has not yet curbed the decline in elephant numbers. Much of the elephant killing is for meat or to protect crops rather than to provide commercial ivory. The elephant population is decreasing in Guinea where poaching may be out of control. It is not known whether the decline of elephant numbers in the Ivory Coast and Liberia is principally due to poaching or habitat fragmentation or their combination. The slow decline of the limited elephant herd in Mali may be caused by range deterioration and competition for range water sources rather than poaching for ivory. Poaching is probably not now a problem in Mauritania where few elephants occur. It is not known whether poaching presently contributes to the observed slow decline of the small elephant herd in Niger. The killing of elephants to provide meat, protect crops and to provide ivory has caused a major reduction in Nigeria's elephant herd. Senegal's elephant herd may be stable but the reliability of the estimate is unknown. The quality of anti-poaching efforts in Senegal is unknown. Still, poaching is not considered a serious threat to this population.

Little is known about the nature of the elephant population in Sierra Leone or how poaching is impacting that population. The small elephant population in Togo seems to be increasing and law enforcement seems to be relatively good. Most of the population is confined to a forested area that is both well managed and well protected.

C. Disease or predation. The values in Table 1 for factor C are as follows. A value of 1 is assigned if the species is not endangered in a range country

because of disease or predation. A value 2 is assigned if the species could be endangered because of disease or predation and a value 3 is assigned if the species within a range country is endangered because of disease or predation. Numerous diseases and parasites reduce the life span of elephants in the wild. These agents, however, have received little attention because of the enormity of the impacts on populations caused especially by illegal killing. Little is known about the impact of disease or predation on elephants and it is assumed that these factors do not endanger any populations of the African elephant. A value 1 is assigned in Table 1 because the Service has no evidence that disease or predation substantially impacts any population of the African elephant.

D. The inadequacy of existing regulatory mechanisms. Values 1-3 for factor D in Table 1 are determined in the following manner. The African elephant is not considered endangered in a range country because of inadequate regulatory mechanisms if the range country is a CITES Party, and has developed and implemented an effective elephant conservation program including a proven ability to control the illegal killing of elephants. This condition receives a 1 for factor D in Table 1. Elephant populations are considered endangered in a range country because of inadequate regulatory mechanisms if the range country is a CITES Party but has not fully implemented an effective elephant management plan or has not entirely controlled the illegal killing of elephants. This condition receives a 2 for factor D in Table 1. These populations would be considered threatened under this factor if management programs become effective. The African elephant is considered to be endangered in a range country if that country is not a party to CITES, has not developed or implemented an elephant management plan, and has not satisfactorily controlled the illegal killing of elephants. This condition receives a 3 for factor D in Table 1.

The lack of adequate regulatory mechanisms has adversely impacted many populations of the African elephant. The Service considers the presence of adequate regulatory mechanisms to include an active and adequate elephant conservation program. Such a program would include an established population goal for elephants and the establishment of sufficient habitats to be managed to achieve that goal. Laws and/or regulations necessary to effectively

regulate take and to control the illegal kill of elephants should be in place. An adequate infrastructure must be established to accomplish law enforcement, population assessment, habitat protection, and management. The infrastructure should additionally provide a mechanism so that revenues generated through elephant conservation programs can be directly applied to enhance the management of elephants and to benefit the local citizenry.

Several African elephant populations that are presently considered endangered occur in range countries that have inadequate regulatory mechanisms. The establishment of adequate elephant conservation programs would benefit those populations. Elephant populations in Equatorial Guinea, Uganda, Angola, Namibia, Guinea Bissau, Ivory Coast, Mali, Mauritania and Sierra Leone may be at considerable risk because these countries are not CITES parties and do not have adequate regulatory mechanisms in place.

Central Africa. Information about the adequacy of regulatory mechanisms is limited for Central Africa. We do not know if elephant conservation programs have been implemented for Cameroon, Chad, Equatorial Guinea or Zaire. Management programs have been developed for the Central African Republic, Gabon and the Congo, but resources have apparently been inadequate to implement those plans. Adequate habitat and elephant populations remain in Central Africa and these states could benefit greatly from the implementation of good elephant conservation programs.

Eastern Africa. Elephant conservation programs have been developed and implemented to varying degrees in Kenya and Tanzania. Elephant conservation programs have apparently not been developed in Ethiopia, Sudan or Uganda. The status of any elephant management program for Somalia is unknown.

Southern Africa. The status of regulatory mechanisms associated with an elephant conservation program is unknown for Angola and Mozambique. It is anticipated that adequate regulatory programs will become established within Namibia in the near future. The best evidence that effective regulatory programs have been developed and implemented is that the illegal killing of elephants is sufficiently controlled so that populations have become stabilized or may be increasing as in Botswana, South Africa, Zimbabwe and Malawi. Other evidence

of a satisfactory elephant conservation program is that extensive set aside areas have been established and have begun to be managed.

Western Africa. Information on elephant conservation programs is also limited for western Africa. Burkina Faso has developed an elephant conservation program, but implementation has been limited. Antipoaching efforts have been initiated in Benin, Burkina Faso, Ghana and Togo.

E. Other natural or manmade factors affecting its continued existence. Two factors considered here are relevant to elephant populations throughout the African continent. The first factor concerns recent efforts by the Government of the United States and Governments of non-reserving CITES parties in the international community to reduce the international demand for ivory and the illegal killing of elephants. The action of the unilateral import bans and the transfer of the African elephant to CITES appendix I is intended to help elephant populations become stabilized and to increase over time.

The second factor pertains to the low intrinsic population growth rate of the African elephant. African elephants may

first become pregnant at 9–12 years of age and gestation is 22 months. Perhaps one-half of all elephants born in the wild reach sexual maturity, and females may possibly produce only about 7 viable calves during a lifetime (data from Grzimek 1975). Populations with such growth parameters increase so slowly that herds decimated by illegal killing are expected to require decades to recover. Present and growing pressures on range resources may limit recovery to levels much lower than former populations levels. The elephant's greatest competitor is man, whose burgeoning population places enormous pressures on land which results in the destruction and fragmentation of habitats in Africa. It is obvious that the only way to attain sizable herds of elephants in the 21st century is thus to maintain and intensively manage whatever sizable herds presently exist.

The analysis of summary data listed in Table 1 and in text indicates that elephant populations in Botswana, South Africa and Zimbabwe are threatened and not endangered and that elephant populations in Equatorial Guinea, Rwanda, Uganda, Angola, Namibia, Guinea, Guinea Bissau, Ivory

Coast, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone and Togo are clearly endangered because of the quality of available habitat, present population levels or the clear lack of regulatory mechanisms represented by non-CITES membership. Many other populations of the African elephant are considered endangered at this time because of the continuing overutilization of the elephant resource and/or the apparent inadequacy of existing management and regulatory mechanisms to control that overutilization.

Table 1. Summary data for range countries with extensive areas of elephant habitat (listed as multiples of 1000km²). Estimates of elephant populations (in thousands) are from Vol. 1, Ivory Trade Review Group 1989. Values are provided for the listing evaluation factors A through D required by the Endangered Species Act. The values indicate:

- (1) Not endangered in this range country because of this factor;
- (2) Could be endangered in this range country because of this factor;
- (3) Endangered in this range country because of this factor.

| Country by region | Area | Population | ESA factor value | | | |
|-------------------------------|-------|------------|------------------|---|---|---|
| | | | A | B | C | D |
| CENTRAL AFRICA: | | | | | | |
| Cameroon..... | 253 | 22.0 | 1 | 3 | 1 | 3 |
| Central African Republic..... | 346 | 23.0 | 1 | 3 | 1 | 3 |
| Chad..... | 202 | 2.1 | 1 | 3 | 1 | 3 |
| Congo..... | 214 | 42.0 | 1 | 3 | 1 | 3 |
| Equatorial Guinea..... | 23 | 0.6 | 2 | 3 | 1 | 3 |
| Gabon..... | 249 | 74.0 | 1 | 2 | 1 | 3 |
| Zaire..... | 1,420 | 112.0 | 1 | 2 | 1 | 3 |
| | 2,707 | 275.7 | | | | |
| EASTERN AFRICA: | | | | | | |
| Ethiopia..... | 139 | 8.0 | 1 | 3 | 1 | 3 |
| Kenya..... | 413 | 16.0 | 1 | 2 | 1 | 2 |
| Rwanda..... | 3 | 0.05 | 3 | 3 | 1 | 2 |
| Somalia..... | 56 | 2.0 | 2 | 3 | 1 | 3 |
| Sudan..... | 372 | 22.0 | 1 | 3 | 1 | 3 |
| Tanzania..... | 501 | 61.0 | 1 | 2 | 1 | 2 |
| Uganda..... | 16 | 1.6 | 1 | 3 | 1 | 3 |
| | 1,500 | 110.6 | | | | |
| SOUTHERN AFRICA: | | | | | | |
| Angola..... | 458 | 18.0 | 1 | 3 | 1 | 3 |
| Botswana..... | 93 | 68.0 | 1 | 1 | 1 | 1 |
| Malawi..... | 19 | 2.8 | 1 | 3 | 1 | 2 |
| Mozambique..... | 246 | 17.0 | 1 | 3 | 1 | 3 |
| Namibia..... | 141 | 5.7 | 1 | 2 | 1 | 3 |
| South Africa..... | 23 | 7.8 | 1 | 1 | 1 | 1 |
| Zambia..... | 211 | 32.0 | 1 | 2 | 1 | 2 |
| Zimbabwe..... | 114 | 52.0 | 1 | 1 | 1 | 1 |
| | 1,305 | 203.3 | | | | |
| WEST AFRICA: | | | | | | |
| Benin..... | 20 | 2.1 | 1 | 3 | 1 | 3 |
| Burkina Faso..... | 36 | 4.5 | 1 | 3 | 1 | 2 |
| Ghana..... | 22 | 2.8 | 1 | 3 | 1 | 3 |
| Guinea..... | 11 | 0.6 | 2 | 3 | 1 | 3 |
| Guinea Bissau..... | 0.4 | 0.04 | 3 | 3 | 1 | 3 |
| Ivory Coast..... | 51 | 3.6 | 1 | 3 | 1 | 3 |
| Liberia..... | 17 | 1.3 | 2 | 3 | 1 | 3 |
| Mali..... | 50 | 0.8 | 2 | 3 | 1 | 3 |
| Mauritania..... | 6 | 0.1 | 2 | 3 | 1 | 3 |

| Country by region | Area | Population | ESA factor value | | | |
|-------------------|------------------|---------------|------------------|---|---|---|
| | | | A | B | C | D |
| Niger..... | 6 | 0.4 | 1 | 3 | 1 | 3 |
| Nigeria..... | 29 | 1.3 | 1 | 3 | 1 | 3 |
| Senegal..... | 10 | 0.1 | 1 | 3 | 1 | 3 |
| Sierra Leone..... | 3 | 0.4 | 3 | 3 | 1 | 3 |
| Togo..... | 7 | 0.4 | 1 | 3 | 1 | 2 |
| Grand total..... | 268.4 5,780.4 | 18.4 608.0 | | | | |

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act, (Act) include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages conservation measures by Federal, international, and private agencies, groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed or listed as endangered or threatened and with respect to its proposed or designated critical habitat (if any). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat.

If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. Since the African elephant is presently listed as threatened, it is already fully covered by section 7(a), and the reclassification of certain populations to endangered would add no new requirements in this regard.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Section 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs, in the form of personnel, the training of personnel, and assistance for research, conservation, management, or protection of the species.

These actions are also conducted under the authorization of section 2101

of the AECA that provides, through the African Elephant Conservation Fund, a means to provide financial assistance for elephant conservation to African government agencies responsible for African elephant conservation and protection. This fund provides significant financial assistance to range States to develop scientific information on habitat conditions and elephant numbers and trends, to control the take of African elephants, and to implement conservation programs to provide for healthy and sustainable populations of African elephants.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce, any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and state conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened species, including individuals, their parts and products thereof, under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22, 17.23, and 17.32. For endangered species, such permits are available for scientific purposes, to enhance propagation or survival, or for incidental take in connection with otherwise lawful activities. Permits are available for threatened species for all of these purposes, as well as for zoological exhibitions, educational purposes, or special purposes consistent with the purpose of the Act. All such permits must also be consistent with the purposes and policy of the Act as required by section 10(d) of the Act.

The import, export, and interstate commerce in worked antique ivory

(must be proven to be at least 100 years of age) is exempt from Endangered Species Act prohibitions. Import, export, take within the United States and its territories, and interstate or foreign commerce in living elephants listed as endangered and in non-ivory parts and products derived from such elephants, as well as export of worked ivory from such elephants, would be prohibited by the Act and by these proposed regulations, unless allowed by permits issued under the authority of 50 CFR 17.22 (and, for import or export, 50 CFR part 14 and 23). Possession of endangered African elephants, or their parts or products, which were illegally taken, would also be prohibited.

Import of raw and worked ivory, except for sport-hunted trophies discussed below, and export of all raw ivory, would also be prohibited, and permits would not be available for such activities since they are prohibited by the AECA, as discussed earlier.

For threatened elephants, the proposed revised special rule at 17.40(e) would establish prohibitions and permit availability similar to those described above for endangered species, except that permits would also be available for import of sport-hunted trophies from threatened elephant populations under certain conditions.

As discussed above, section 9 of the act and implementing regulations found at 50 CFR 17.21 generally prohibit, among other things, any interstate transaction that involves the actual or intended transfer of endangered species and their parts and products from one person to another in the pursuit of gain or profit except for certain antique articles or as provided for in a permit issued in accordance with 50 CFR 17.22. With respect to such transactions in non-antique African elephant ivory currently in the United States, however, the Service presumes that such ivory was legally imported into the United States prior to June 9, 1989, and, therefore, proposes to exempt interstate transactions in such ivory under most conditions from the general prohibitions by amending 50 CFR 17.22. Permits that

would otherwise be required under 50 CFR 17.22 would not be necessary or available. The general prohibitions against such transactions would continue to apply if the transaction involves any one of the following:

- (1) Ivory that was imported into the United States in violation of the June 9, 1989, import moratorium or other Federal laws or regulations;
- (2) Ivory that was illegally acquired in or illegally exported from another country; or
- (3) Ivory that was imported as a sport-hunted trophy under a CITES import permit issued in accordance with 50 CFR 23.15 after January 18, 1990.

The Service believes this presumption is justified for the following reasons:

(1) Since June 9, 1989, there has been a complete moratorium under the AECA on the import of African elephant ivory into the U.S. All information available to the Service at this time indicates that this has been effective in keeping out all but negligible quantities of ivory. There is, thus, no significant quantity of illegal imported African ivory within the United States.

(2) All such African elephant ivory imported before June 9, 1989, originated from elephant populations either listed as threatened (from May 1978 to June 1989) or not listed at all under the Act (prior to May 1978), when imports into the United States were allowed without need for U.S. import permits.

(3) The amount of African elephant ivory already in the United States (now estimated to be more than 100 tons) is much larger than the amount of parts and products in the United States from any other listed species. Moreover, unlike most other endangered species products, ivory is virtually indestructible, so that most of the ivory legally imported in the past is still in existence.

(4) Since imposition of the United States import ban, according to a recent study completed by the World Wildlife Fund, "the U.S. market for ivory has virtually collapsed * * *" (O'Connell and Sutton, 1990). There is no evidence to indicate that continuation of interstate commerce in African elephant ivory would lead to an incentive to smuggle ivory into the United States, since there is little demand for it here.

(5) A significant amount of the ivory currently in the United States is in the form of parts or inlays in musical instruments and objects of art and thus not easily separable from the item.

Amendment of the Regulation for Endangered Populations

To implement this presumption, the Service proposes to amend 50 CFR 17.21

(with respect to endangered populations) and revise the special rule for African elephants found at 50 CFR 17.40(e) to provide that interstate transactions in non-antique African elephant ivory that was legally imported into the U.S. prior to June 9, 1989, is exempt under most conditions from the general prohibitions. General prohibitions against such transactions would continue to apply if the transaction involves any of the conditions cited above.

Revisions of the Special Rule for Threatened Populations

Current Service regulations and a special rule, (50 CFR 17.40(e)) promulgated pursuant to the Endangered Species Act, provide exceptions for the import and export of raw worked ivory and other parts from threatened populations for commercial and other purposes under certain conditions. These exceptions have been superseded by the June 9, 1989, import moratorium imposed under the AECA and the January 18, 1990, transfer of the African elephant to appendix I of CITES. Additionally, the AECA specifically exempts from any moratorium the importation of sport-hunted elephant trophies under certain conditions.

The Service had proposed changes to its regulations and the special rule on May 5, 1989 (54 FR 19416). These proposed changes were subsequently superseded by the moratorium on ivory and transfer of the African elephant to appendix I. The Service therefore withdraws the May 5, 1989, proposed changes to its regulations and the special rule and proposes now to revise the special rule by eliminating the provisions that allow for import or export of ivory and other parts and products primarily for commercial purposes and by issuing new regulations pertaining to the import of sport-hunted elephant trophies. The revised special rule would also incorporate the exemption from general prohibitions for interstate transactions in non-antique ivory under most conditions as described above for endangered populations.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, comments and suggestions concerning any aspect of this proposed rule are hereby solicited from the public, concerned governmental agencies within the United States, African range states, other interested countries, the scientific community, industry, private

interests, and other parties. Comments are particularly sought concerning the following:

(1) Data about biological, commercial, environmental, or other threats (or lack thereof) to populations of African elephants within individual range countries.

(2) The management goals for elephants in individual range countries. This includes information about the size and sex-age structure of elephant populations desired in individual range countries and the carrying capacity of habitats for elephants within those range countries.

(3) Additional information about trends and present populations of elephants in individual range countries.

(4) Descriptions of the quality of wildlife and habitat management practices in range countries, including the degree of security afforded elephants and elephant habitats.

(5) The adequacy of laws and regulations for implementing an elephant conservation program including the control and monitoring of the take (where applicable) and the rigorous control of the illegal killing of elephants.

(6) The nature of the infrastructure present in range countries for implementing elephant conservation programs including, but not limited to, law enforcement, habitat protection and management, research, and education.

(7) The extent and success of efforts to control the illegal killing of elephants.

(8) Information on how economic benefits realized from elephant conservation programs are utilized to benefit wildlife management and local communities.

(9) Information on the factors should be considered by the Service in its presumption that interstate transactions in non-antique African elephant ivory that was legally imported into the United States prior to the June 9, 1989, ban imposed pursuant to the AECA should be exempt from the general prohibition under most conditions.

Final promulgation of the regulation on the subject species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs substantively from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal, should be in writing, and should be directed to the party named in the above "ADDRESSES" section.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* of October 25, 1983 (48 FR 492440).

References Cited

Dublin, H.T. 1989. Elephant numbers, distributions and trends in the southern African region. A review of census methods and recent population data. Unpubl. ms. 32 pp.
 Ivory Trade Review Group. 1989. The ivory trade and the future of the African elephant. Volume 1, Summary and conclusions; Volume 2, Technical Reports.

Prepared for the CITES Conference of the Parties, Lausanne, Switzerland, Oct. 1989.
 Grzimek, H.C.B. 1975. Grzimek's animal encyclopedia. Vol. 12 Mammals III. 657 pp. Van Nostrand Reinhold Co., New York, NY.
 O'Connell, M.A., and M. Sutton. 1990. The effects of trade moratoria on international commerce in African Elephant ivory. World Wildlife Fund and the Conservation Foundation. 38 pp.
 Parker, I.S.C. 1989. The raw ivory trade 1979-1987. Unpubl. ms. 140 pp.
 Pitman, D. (no date) Elephants and people. Zimbabwe's alternative to the ivory trade bans. The Zimbabwe Trust. Harare, Zimbabwe, 16 pp.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulations Promulgation

Part 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by revising the entry for "Elephant, African" under "MAMMALS", in the List of Endangered and Threatened Wildlife, to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *
 (h) * * *

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|------------------------|---------------------------------|----------------|--|--------|-------------|------------------|---------------|
| Common name | Scientific name | | | | | | |
| MAMMALS | | | | | | | |
| Elephant, African..... | <i>Loxodonta africana</i> | Africa | Entire, except where listed as threatened, below. | E | 40,— | NA | NA |
| Do..... | do..... | do..... | Botswana, South Africa, and Zimbabwe. | T | 40,— | NA | 17.40(e) |

* * * * *
 3. It is proposed to amend § 17.21 by adding paragraph (h) to read as follows:
§ 17.21 Prohibitions.
 * * * * *

(h) African elephant ivory. (1) Notwithstanding paragraphs (e) and (f) of this section, interstate transactions that involve the actual or intended transfer from one person to another in the pursuit of gain or profit involving non-antique African elephant ivory is presumed to involve ivory lawfully imported into the United States prior to June 9, 1989, and any person may engage in such activities without need for a permit issued in accordance with § 17.22, provided that none of the following conditions exist relative to such transaction:

- (i) the ivory was illegally acquired or illegally exported from another country;
- (ii) the ivory was imported into the U.S. in violation of any moratorium on imports adopted in accordance with 16 U.S.C. 4201 *et seq.*, or any other Federal law or regulation;

(iii) the ivory was imported as a sport-hunted trophy under a United States CITES import permit issued after January 18, 1990, in accordance with § 23.15.

(2) Nothing in this rule should be construed as pre-empting any State law that may be more restrictive with regard to such transactions.

(3) The general prohibition against such transactions continue to apply if the transaction involves any of the above situations, and, as such, shall be grounds for appropriate law enforcement action.

4. It is proposed to amend § 17.40 by revising paragraph (e) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *
 (e) African elephant (*Loxodonta africana*). (1) All provisions of § 17.31 apply to those populations of this species that are listed as threatened. Permits are available under § 17.32 only for the export of worked ivory for scientific purposes or for the

enhancement of propagation or survival of the species, for import and export of live elephants, for import and export of non-ivory tissues and parts, and for import of sport-hunted elephant trophies provided the conditions in 50 CFR parts 14 and 23 are met. All such permits must also be consistent with the purposes and policy of the Act, as required by section 10(d) thereof. In addition, permits for import of sport-hunted trophies must meet the conditions in paragraph (e)(3) of this section.

(2) Definitions. For the purposes of this paragraph (e):

Lip mark area means that area of a whole African elephant tusk where the tusk emerges from the skull and which is usually denoted by a prominent ring of staining on the tusk in its natural state.

Raw ivory means any African elephant tusk, and any piece thereof, the surface of which, polished or unpolished, is unaltered or minimally carved.

(3) In addition to the terms and provisions of § 17.32, permits to import sport-hunted trophies will be issued and

trophies can be imported only when the following conditions have been met:

(i) Evidence exists that an active and adequate elephant conservation program has been established in the range country. That program

(A) Describes the elephant management goal for the range country;

(B) Contains laws and/or regulations which provide a capability to manage elephants and habitats;

(C) Contains an adequate infrastructure to implement laws and/or regulations, to provide adequate biological data about the elephant population to determine harvest levels and any subsequent quotas to be submitted to the CITES Secretariat, to manage populations and habitats, and to control the legal and illegal harvest of elephants, and

(D) Provides evidence that controlled sport-hunting activities enhance the survival of the population of African elephants.

(ii) The trophy has been legally taken in the country of origin and that country has submitted an ivory quota to the Convention's Secretariat with a copy to the Director, U.S. Fish and Wildlife Service, Washington, DC; and

(iii) The trophy is legibly marked by means of punch-dies, under a marking and registration system established by the country of origin, that includes the following information: Country of origin represented by the two-letter code established by the International Organization for Standardization followed by the registration number assigned to the raw ivory by the country of origin, the last two digits of the year of registration and the weight of the raw ivory to the nearest kilogram. Any mark must be placed on the lip mark area and indicated by a flash of color which serves as a background for such mark.

(iv) The trophy is imported directly from the country of origin except that such trophy that transited or was transshipped through a country while remaining under Customs control shall not be considered to be imported from that country.

Dated: February 27, 1991.

Richard N. Smith,
Director, Fish and Wildlife Service.

[FR Doc. 91-6316 Filed 3-15-91; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening and Extension of Comment Period on Proposed Endangered Status for 5 Idaho Aquatic Snails

AGENCY: Fish and Wildlife Service, Interior.

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

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that public hearings will be held on the proposed determination of endangered status for 5 aquatic snails from Idaho: the Idaho springsnail (also called the Homedale Creek springsnail) (*Fontelicella idahoensis*), the Utah valvata snail (*Valvata utahensis*), the Snake River Physa snail (*Physa natricina*), an undescribed limpet species (Banbury Springs limpet) in the genus *Lanx*, and the Bliss Rapids snail (an undescribed monotypic genus in the family Hydrobiidae) and that the comment period of the proposal is reopened and extended. The hearings and reopening and extension of the comment period will allow all interested parties to submit oral or written comments on this proposal.

DATES: The comment period on the proposal is reopened and extended until April 30, 1991. Public hearings will be held from 7 to 10 p.m. on Wednesday, April 3, 1991, in Boise, Idaho, and from 2 to 4 p.m., and 7 to 9 p.m. on Thursday, April 4, 1991, in Hagerman, Idaho. The comment period now closes on April 30, 1991.

ADDRESSES: The April 3, 1991 public hearing will be held at the Red Lion Downtowner, 1800 Fairview, in Boise, Idaho, and the April 4, 1991 public hearing will be held at the Hagerman Senior Citizen Center, 140 East Lake Street, Hagerman, Idaho. Written comments and materials may be submitted at the hearings or may be sent directly to the Field Supervisor, Boise Field Station, U.S. Fish and Wildlife Service, 4696 Overland Road, room 576, Boise, Idaho, 83705. Comments and materials received will be available for public inspection during normal business hours, by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: For information on the public hearings contact Charles Lobdell, Field

Supervisor at the above address (208/334-1931 or FTS 554-1931).

SUPPLEMENTARY INFORMATION:

Background

The snails proposed for listing are found in the Snake River in the vicinity of the Thousand Springs formation between Hammett and Twin Falls, Idaho. The free-flowing, well oxygenated Snake River habitats required by these species are threatened by proposed large hydroelectric dam developments, current peak-loading operation of existing hydroelectric water projects, water pollution, reduction in oxygen concentration, and possibly competition from a recently introduced hydrobiid snail. A proposal to list the snails as endangered species was published in the *Federal Register* on December 18, 1990 (55 FR 51931).

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held, if requested within 45 days of the publication of a proposed rule. On January 28, 1991, the Service received a request for a public hearing on this proposal from Mr. Bob J. Muffley, Gooding County Commissioner, Jerome, Idaho representing the Middle Snake River Study Group. Six other groups also requested a hearing. The Service has scheduled hearings for April 3, 1991 at the Red Lion Downtowner in Boise, Idaho from 7 to 10 p.m., and April 4, 1991 from 2 to 4 p.m. and 7 to 9 p.m. at the Hagerman Senior Citizen Center, Hagerman, Idaho. Those parties wishing to make statements for the record should bring a copy of their statements to present to the Service at the start of the hearings. Oral statements may be limited to 5 or 10 minutes if the number of parties present at the hearings necessitates some limitation. There are no limits to the length of written comments or materials presented at these hearings or mailed to the Service. Written comments will be given the same weight as oral comments.

The comment period on the proposal is being reopened and extended in order to accommodate the hearings. Written comments may not be submitted until April 30, 1991 to the address given in the ADDRESSES section.

Author

The primary author of this notice is James F. Gore, Boise Field Station (see ADDRESSES section).

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened species,
Exports, Imports, Reporting and
recordkeeping requirements, and
Transportation.

Dated: March 12, 1991.

Marvin L. Plenert,
*Regional Director, Region 1, U.S. Fish and
Wildlife Service.*

[FR Doc. 91-6358 Filed 3-15-91; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 56, No. 52

Monday, March 18, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[Docket No. 8252-S-RCD-91-1]

Request for Comments on New Standard Reinsurance Agreement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice to provide additional time for public comment.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes this notice to advise all interested parties that it is extending the time allowed for public comment and suggestions on the new Standard Reinsurance Agreement (Agreement or SRA) to be issued for the 1992 agreement year.

On Friday, February 22, 1991, FCIC published a Notice in the *Federal Register* at 56 FR 7325, with request for public comment and suggestions on the new Standard Reinsurance Agreement (Agreement or SRA) it will be issuing for 1992 agreement year. Comments and suggestions were originally requested by not later than March 15, 1991.

FCIC is seeking public comment on the 1992 Standard Reinsurance Agreement from all interested parties. Written comments in response to this notice should be identified at the top of the first page with the number "RCD-91-1," and should be submitted before March 30, 1991. Comments received will assist FCIC in making appropriate modifications to the SRA designed to benefit insured agricultural producers and all federal taxpayers, while facilitating sound business operations of participating crop insurance companies. Comments supported by thorough analysis with supporting documentation and data will be especially helpful.

Several commenters, expressing concern that there would not be sufficient time to assemble data and in-depth analysis, asked FCIC to be

allowed a slightly longer comment period. FCIC, in response to these requests, has extended this period of public comment until March 30, 1991. The notice, published at 56 FR 7325, inadvertently listed the notice as RCD-91-N. This is corrected herein to read RCD-91-1.

DATES: Written comments on this notice should bear the identifying document number "RCD-91-1" at the top of the first page and should be submitted not later than March 30, 1991, to be sure of consideration.

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

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

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

Done in Washington, DC on March 7, 1991.

James E. Cason,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 91-6363 Filed 3-15-91; 8:45 am]

BILLING CODE 3410-08-M

Forest Service

Loose Bark and Grouse Butte West Timber Sales, Mt. Baker-Snoqualmie National Forest, Skagit and Whatcom Counties, WA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to analyze and disclose the environmental impacts of site-specific proposals to harvest and regenerate timber, construct and reconstruct roads, and enhance wildlife habitat within the Loose Bark and Grouse Butte West Project Areas. The Loose Bark project area is located within the Noisy Diobsud Block of the

Mt. Baker Roadless Area #6041. The Grouse Butte West project area is located in the West Block of the Mt. Baker Roadless Area #6041. The proposals will be in compliance with the Mt. Baker-Snoqualmie National Forest Land and Resource Management Plan (Forest Plan) of June 1990, which provides overall guidance in achieving the desired future condition for the area, including a schedule of proposed activities for the next ten years. The proposed Loose Bark timber sale is located in the vicinity of Sauk Mountain in the Skagit River drainage. The proposed Grouse Butte West timber sale is located in the vicinity of Grouse Butte, in the Rocky Creek drainage. Both projects are located on the Mt. Baker Ranger District and are scheduled in the Forest Plan as two timber sales for fiscal year 1991. The Mt. Baker-Snoqualmie National Forest invites written comments and suggestions on the scope of the analysis for both areas.

DATES: Comments concerning the scope of the analysis should be received in writing by April 1, 1991.

ADDRESSES: Send written comments to Larry Hudson, District Ranger, Mt. Baker Ranger District, 2105 Highway 20, Sedro Woolley, WA 98284.

FOR FURTHER INFORMATION CONTACT: Ann Dunphy, Planning Forester, at the above address or (206) 856-5700.

SUPPLEMENTARY INFORMATION: The proposals include harvesting timber and constructing/reconstructing roads on the two timber sales and enhancement of wildlife habitat within the project areas. The proposed timber sales are listed in the Timber Program Activity Schedule, (Forest Plan, appendix A). The Grouse Butte West Timber Sale is listed for 1991, and the Loose Bark Timber Sale is listed for 1991. The analysis area for the Loose Bark project is approximately 1380 acres in size, and is located in sections 14, 15, 23 and 24 of T.35 N., R.9E., Willamette Meridian. The Grouse Butte West analysis area is approximately 2800 acres in size, and is located in sections 25 and 36 of T.39N., R.6E.; sections 30, 31, and 32 of T.39N., R.7E.; and sections 5 and 6 of T.38N., R.7E., Willamette Meridian.

The environmental analysis of these proposed timber sales has been ongoing for several years as separate analyses. An Environmental Assessment for the Grouse Butte West Timber Sale was

signed in February, 1989. Because of new information, which changes the decision, and new issues related to roadless areas, site-specific analysis will be done for the proposed Grouse Butte West timber sale. This analysis will be documented, along with the site-specific analysis of the proposed Loose Bark timber sale, in one EIS.

This Draft EIS will be tiered to the Final EIS for the Mt. Baker-Snoqualmie National Forest Land and Resource Management Plan (June, 1990). The Forest Plan's direction for the Loose Bark project area is Management Area (MA) 1A (Dispersed Recreation—Primitive), MA 2B (Scenic Viewshed—Middleground), MA 17 (Timber Management Emphasis), MA 19 (Mountain Hemlock Zone), and MA 23A (Other Municipal Watersheds). The Forest Plan's direction for the Grouse Butte West project area is MA 12 (Mature and Old Growth Wildlife Habitat), and MA 23A (Other Municipal Watersheds). MA 13 (Watershed, Wildlife, and Fisheries Emphasis in Riparian Areas) will be mapped as a part of both projects, to meet Forest-wide Standards and Guidelines in the Forest Plan. Timber harvest may be proposed in Management Areas 2B, 13, 17, and 23A. The Loose Bark sale area would include a portion of the Noisy Diobsud Block of the Mt. Baker Roadless Area #6041. The Grouse Butte West sale area would include a portion of the West Block of the Mt. Baker Roadless Area #6041. These parcels of Mt. Baker Roadless Area #6041 were considered but not selected for wilderness designation in the 1984 Washington State Wilderness Act.

Interested environmental groups, individuals, timber purchasers, and Federal, State, and local agencies were invited to participate in early scoping meetings of the Five Year Harvest Schedule held in 1986, 1988, and 1989. The Loose Bark and Grouse Butte West proposed timber sales were being considered as separate analyses at the time. A letter to interested publics and a news release requesting additional comments on the Loose Bark proposal was issued in February, 1989. Comments have been received from several organizations and individuals on both proposals. An informational letter is being sent concurrently to those previously involved to update them on the analysis and the intent to prepare an EIS, and to invite further involvement. Further scoping meetings may be scheduled if additional issues are raised.

Preliminary issues identified are: Timber harvest; maintenance of deer and elk winter range; stream stability,

wetlands, and associated riparian wildlife habitat; downstream water quality and quantity; slope stability; visual quality; threatened, endangered and sensitive wildlife and plants; cumulative effects; entry into roadless area parcels; old growth values; potential effects on private landowners; and potential impacts to domestic water users.

Preliminary alternatives have been identified for both proposals; each includes a no action alternative. Alternatives for timber harvest will examine clearcutting, commercial thinning, and single entry shelterwood options, and both cable and helicopter logging systems.

The draft environmental impact statement is expected to be completed about May, 1991. Your comments and suggestions are encouraged and should be in writing. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the *Federal Register*.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final environmental impact statement is scheduled for completion by August, 1991. In the final EIS, the Forest Service will respond to comments and responses received on the draft EIS. The Forest Service is the lead agency. J.D. MacWilliams, Forest Supervisor, Mt. Baker-Snoqualmie National Forest, is the responsible official and will make a decision regarding this proposal. The decision and reasons for the decision will be documented in the Record of Decision. The decision will be subject to Forest Service appeal regulations (36 CFR 217).

Dated: March 1, 1991.

Bernie Weingardt,

Deputy Forest Supervisor.

[FR Doc. 91-6355 Filed 3-15-91; 8:45 am]

BILLING CODE 3410-11-M

West Indigo Timber Sales and Other Projects, Siskiyou National Forest, Josephine and Curry Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Forest Service, USDA, will prepare an environmental impact statement (EIS) for a proposal to implement four timber sales and other related projects. The EIS will tier to the Final EIS and Land and Resource Management Plan (Forest Plan) for the Siskiyou National Forest.

The Proposed Action(s) are all located in the Indigo drainage and develop or use some common road systems. The specific projects include: (1) Harvest of timber from the Brandy Creek, Bucks Up, Snail Basin, and Snail Creek timber sales; (2) development of associated road systems; (3) construction of the Brandy Creek Trail and interpretive site; (4) development of the High Ridge picnic site; (5) wildlife forage enhancement in natural meadows; (6) road closures to improve wildlife habitat; and (7) use of prescribed fire with the objective of restoring fuel and vegetation conditions to a pre-management situation on approximately 40 acres within the Bucks Up timber sale area.

The agency gives notice of the full environmental analysis and decision-making process that will occur on the Proposed Action so that interested and affected people, along with local, State, and other Federal agencies, are aware of how they may participate and contribute to the final decision. The Siskiyou National Forest invites written input concerning issues specific to the Proposed Action.

DATES: Input concerning issues with the Proposed Action must be received by April 30, 1991.

ADDRESSES: Direct written input and questions about the Proposed Action and Environmental Impact Statement to William Gasow, Project Leader, Siskiyou National Forest, Supervisor's Office, P.O. Box 440, Grants Pass,

Oregon 97526 (telephone: (503) 479-5301).

SUPPLEMENTARY INFORMATION: The Proposed Action is derived from two key elements in the Forest Plan; the capital investment opportunities (appendix B), and the ten-year action plan (appendix C). Some of the proposed recreation projects resulted from subsequent public input.

TIMBER SALES AND ASSOCIATED ROADS

| Fiscal year | Sale name | Legal description | Acres of cut | Net MMBF | Road miles | | Harvest prescription | Yarding system |
|-------------|--------------|--|--------------|----------|------------|---|----------------------|----------------|
| | | | | | C | R | | |
| 1993 | Brandy Creek | S21, 26-28, 34; T34S; R10W, WM. | 130 | 3.6 | 4 | 5 | MGTR | S |
| 1992 | Bucks Up | S18, 19; T34S; R09W; S13, 14, 23, 24; T34S; R10W; S14, T35S, R10W, WM. | 440 | 6.8 | 2 | 6 | MGTR/HGTR/CTHN | S |
| 1993 | Snail Basin | S27, 28, 31, 33, 34; T34S; R10W; WM. | 105 | 2.4 | 2 | 6 | MGTR | S |
| 1993 | Snail Creek | S32-34; T34S; R10W; S3-5, 8; T35S; R10W; WM. | 180 | 6.4 | 1 | 5 | MGTR | S/HEC |

Abbreviations used above:

S: Section; T: Township; R: Range; W: West; WM: Willamette Meridian; MMBF: Million Board Feet; C: Construction; R: Reconstruction; MGTR: Moderate Green Tree Retention; HGTR: Heavy Green Tree Retention; CTHN: Commercial Thin; S (yarding system): Skyline; HEC: Helicopter.

Other Projects

Recreation

A trail would be constructed from the Burnt Ridge Road to the top of Brandy Peak, approximately one mile. An interpretive display and viewpoint would be developed at Brandy Peak. The High Ridge Picnic Site would be developed.

Wildlife Habitat Improvement

Approximately seven miles of existing road would be closed to bring the road density in the area within Oregon Department of Fish and Wildlife guidelines of one and a half miles of road per square mile. Forage would be enhanced by cutting unwanted vegetation and using prescribed fire to regenerate forage species in natural meadows. Most of these meadows are located on the main ridge which extends from Bear Camp to Fish Hook Peak.

Prescribed Fire

Approximately 40 acres outside of harvest units in the Bucks Up Timber Sale Area would be burned to reduce accumulated fuel loading, improve habitat for wildlife, and regenerate stands of vegetation. Prescribed fire would also be used to reduce fuel accumulations and prepare sites for reforestation inside harvest units after timber harvest is completed.

Alternatives to the Proposed Action

Public input and internal agency scoping will be used to determine significant issues with the Proposed Action. These issues will in turn be used to develop alternatives to the Proposed Action. The No Action Alternative will be analyzed.

Public Involvement

The Forest Service is seeking input from Federal and State agencies, individuals, and organizations who may be interested in or affected by the proposal. Other forms of public involvement are public meetings and commenting to the draft EIS.

Public meetings will be scheduled periodically during the preparation of the draft EIS. Meetings will be announced through mailings and through notices in local newspapers. Notices of public meetings will also be published in the Legal Notices section of the *Grants Pass Courier*, Grants Pass, Oregon.

A mailing list has been compiled for the analysis. Interested individuals and agencies may have their names added to this list at any time by submitting a request to the address mentioned above.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review and commenting by July 31, 1991. At that time EPA will publish a Notice of Availability of the draft EIS in the *Federal Register*. Time limits for

commenting will be published in the draft EIS.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 802 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338, (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the Proposed Action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewer may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environment Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled to be completed by November 30, 1991. As part of the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the Proposed Action.

Responsible Official

Mike Lunn, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, Grants Pass, Oregon 97526, is the Responsible Official.

As the Responsible Official he will decide which, if any, of the Proposed Action or Alternatives will be implemented. The Responsible Official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 217).

Dated: March 7, 1991.

J. Michael Lunn,

Forest Supervisor.

[FR Doc. 91-6356 Filed 3-15-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Federal Fisheries Permits—Southwest Region.

Form Number: No form number assigned; OMB—0648-0204.

Type of Request: Request for revision of a currently approved collection.

Burden: 220 respondents; 60 reporting hours; average hours per response—.27 hours.

Needs and Uses: Permits will be used to register U.S. fishermen wishing to participate in specific controlled fisheries and to complement state and territorial statistics systems collecting

catch, effort, and other information needed to determine the need for and impacts of management in the western Pacific region.

Affected Public: Individuals, state or local governments, business or other for-profit, Federal agencies or employees, non-profit institutions, small business or organizations.

Frequency: Annually, on occasion.

Respondent's obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ronald Minsk, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue NW., Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 12, 1991.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 91-6319 Filed 3-15-91; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[C-533-802, C-549-806]

Alignment of the Final Countervailing Duty Determinations on Steel Wire Rope from India and Thailand with the Final Antidumping Duty Determinations on Steel Wire Rope from India and Thailand

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we are extending the due date for the final determinations in the countervailing duty investigations of steel wire rope from India and Thailand to coincide with the due date for the final determinations in the antidumping duty investigations of steel wire rope from India and Thailand. The final determinations will now be due by July 1, 1991.

EFFECTIVE DATE: March 18, 1991.

FOR FURTHER INFORMATION CONTACT: Vince Kane or Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377-2815 or 377-5414, respectively.

SUPPLEMENTARY INFORMATION: On February 4, 1991, we published a preliminary negative countervailing duty determination pertaining to steel wire rope from Thailand (56 FR 4262) and a preliminary affirmative countervailing duty determination pertaining to steel wire rope from India (56 FR 4259). The notices stated that, if the investigations proceeded normally, we would make our final countervailing duty determinations not later than April 15, 1991.

On February 13, 1991, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1671d(a)(1)), petitioner requested an extension of the due date for the final countervailing duty determinations to correspond to the date of the final antidumping duty determinations on the same product from India and Thailand, which is July 1, 1991.

In accordance with section 705 of the Act, and article 5, paragraph 3, of the Subsidies Code, the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty investigation of steel wire rope from India on June 4, 1991, which is 120 days from the date of publication of the preliminary determination in the countervailing duty investigation. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters on or after June 4, 1991. The suspension of liquidation will not be resumed unless and until the Department publishes a countervailing duty order. We will also direct the U.S. Customs Service to hold any entries suspended between February 4, 1991, through June 3, 1991 until the conclusion of these investigations.

Public Comment

Because no parties requested a public hearing within ten days of the publication of our preliminary determination pertaining to Thailand, we will not hold a public hearing in this investigation.

On February 14, 1991, respondent in the countervailing duty determination pertaining to India requested a public hearing in accordance with 19 CFR 355.38 of the Commerce Department's regulations. The public hearing for this investigation, previously scheduled for April 4, will now be held at 10 a.m. on Friday, June 7, 1991, at the U.S. Department of Commerce, room 3708, 14th and Constitution Avenue, NW., Washington, DC 20230.

An interested party may submit ten copies of the business proprietary version and five copies of the public version of case briefs in both the

countervailing duty investigations for India and Thailand to the Assistant Secretary for Import Administration by May 28, 1991. Ten copies of the business proprietary version, and five copies of the public version, of rebuttal briefs must be submitted to the Assistant Secretary by June 5, 1991. Written arguments should be submitted in accordance with § 355.38 of the Commerce Department's regulations (19 CFR 355.38) and will be considered only if received within the time limits specified in this notice.

The U.S. International Trade Commission is being advised of this postponement, in accordance with section 705(d) of the Act. Furthermore, this notice is published pursuant to section 705(d) of the Act.

Dated: March 8, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-6390 Filed 3-15-91; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review: Certain Stainless Steel Wire Rod

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments on certain stainless steel wire rod.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 30 metric tons of certain stainless steel wire rod for the remainder of 1991 under Article 8 of the U.S.-EC steel arrangement.

Short-Supply Review Number: 46.

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 § 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 request is under review with respect to certain stainless steel wire rod for the remainder of 1991. On March 11, 1991, the Secretary received an adequate petition from Futura Metals & Alloys Inc. ("Futura") requesting a short-supply allowance for a total of 30 metric tons of modified AISI grade 308L stainless steel wire rod. Futura requested short supply for the remainder of 1991 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community

and the Government of the United States of America Concerning Trade in Certain Steel Products. Futura's short-supply request alleges that no U.S. producer is either willing to produce this product or able to meet the request specifications and that its potential foreign supplier has insufficient regular export licenses available during this time period.

The requested product meets the following specifications:

Diameter: 5.5 mm;

Chemical Composition:

C—0.020 maximum

Si—0.1-0.3

Mn—1.6-2.0

P—0.015 maximum

S—0.015 maximum

Cr—19.5-20.5

Ni—9.5-10.5

Surface: Free of seams, scabs, ridges and other surface defects;

Quality: Of a quality to make welding quality products;

Other: Hot-rolled, annealed and pickled wire rod in 500kg.-weight coils for redraw.

Section 4(b)(4)(B)(ii) of the Act and § 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 exists with respect to the requested product; therefore, the Secretary will determine whether this product is in short supply not later than April 10, 1991.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than March 25, 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 March 25, 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:

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

Dated: March 12, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-6391 Filed 3-15-91; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent Application Serial Number 7-349,187 entitled, "5-Aminocarbonyl-5H-Dibenzo[a,d]Cyclohepten-5, 10-Imines for Treatment of Epilepsy and Cocaine Addiction" to Neurogen Corporation, having a place of business at Branford, CT. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive licenses may be granted unless, within sixty days from the date of this published Notice, NTIS

receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

According to the invention, control of epileptic seizures and diminishment of drug craving in cocaine addicts is provided by treatment with an effective amount of a compound of the class of 5-aminocarbonyl-5H-dibenzo[a,d]cyclohepten-5, 10-imines.

The availability of the invention for licensing was published in the *Federal Register* Vol. 54, No. 242, p. 51925 (December 19, 1989). A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 703 487-4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Papan Devnani, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology,
National Technical Information Service, U.S.
Department of Commerce.

[FR Doc. 91-6364 Filed 3-15-91; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 12, 1991.

The USAF Scientific Advisory Board Sensor Panel of the Ad Hoc Committee Study of Off-Board Sensors—Summer Study 1991 will meet on 3-4 Apr 91 from 8 a.m. to 5 p.m. at Anser, 1215 S. Jefferson Davis Hwy, Arlington, VA.

The purpose of this meeting is to review Air Force projects and programs relevant to the concept using off-board sensors data to support air combat operations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-6303 Filed 3-15-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

March 12, 1991.

The USAF Scientific Advisory Board Platform Panel of the Ad Hoc Committee Study of Off-Board Sensors—Summer Study 1991 will meet on 3-4 Apr 91 from 8 a.m. to 5 p.m. at Offutt AFB, NB, and on 4-5 Apr 91 from 8 a.m. to 5 p.m. at Nellis AFB, NV.

The purpose of this meeting is to review Air Force projects and programs relevant to the concept using off-board sensors data to support air combat operations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-6304 Filed 3-15-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

March 12, 1991.

The USAF Scientific Advisory Board Fusion Panel of the Ad Hoc Committee Study of Off-Board Sensors—Summer Study 1991 will meet on 2-3 Apr 91 from 8 a.m. to 5 p.m. at Electronic Security Command, San Antonio, TX and Det 2, 2762 Logistics Squadron, Majors Field, Greenville, TX.

The purpose of this meeting is to review Air Force projects and programs relevant to the concept using off-board sensors data to support air combat operations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-6305 Filed 3-15-91; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before April 17, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office, Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) frequency of collection; (4) the affected public; (5) reporting burden; and/or (6) recordkeeping burden; and (7) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: March 12, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: List of Hearing Officers—Recordkeeping.

Frequency: Annually.

Affected Public: State or local governments.

Reporting Burden: Responses: 0
Burden Hours: 0.

Recordkeeping Burden:
Recordkeepers: 16,000 *Burden Hours:* 1,600.

Abstract: This list is used by State public agencies receiving funds under Part B of the Individuals with Disabilities Education Act. The information is used to inform interested parties of the training and abilities of persons serving as impartial hearing officers.

[FR Doc. 91-6273 Filed 3-15-91; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An emergency review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by March 12, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice with attached proposed information collection requests prior to submission of these requests to OMB. For each proposed information collection request, grouped by office, this notice contains the following information: (1) Type of review requested, e.g., new, revision, extension, existing, or reinstatement; (2) title; (3) frequency of collection; (4) the affected public; (5) reporting and/or Recordkeeping burden and (6) abstract. Because an expedited review is requested, the information collection request is also included as an attachment to this notice.

Dated: March 12, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Emergency.

Title: Application for the Follow Through Program.

Abstract: This form will be used by State and local educational agencies and public and private non-profit agencies to apply for grants under the Follow Through Program. The Department uses this information to make grant awards.

Additional Information: An emergency clearance is requested due to the enactment of Public Law 101-501 which amended the Follow Through Act. Under this law, new competitions are required for FY 1991 grants for local projects, sponsors and the development of new models. The emergency clearance is necessary to timely process FY 1991 grant awards for new projects.

Frequency: One time only.

Affected Public: State or local Governments; non-profit institutions.

Reporting Burden:

Responses: 300, *Burden Hours:* 6000.

Recordkeeping Burden:

Recordkeepers: 0, *Burden Hours:* 0.

[FR Doc. 91-6274 Filed 3-15-91; 8:45 am]

BILLING CODE 4000-01-M

Office of Educational Research and Improvement; Library Services and Construction Act: Intent to Repay Funds Recovered as a Result of a Final Audit Determination Issued to the Connecticut State Library Agency

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA) (20 U.S.C. 1234e) as in effect in December 1985, the U.S. Secretary of Education (Secretary) intends to repay to the Connecticut State Library Agency (State Agency), under a grantback arrangement, an amount equal to 75 percent of funds recently recovered by the Department of Education (Department) as a result of a final audit determination issued by the Assistant Secretary for Educational Research and Improvement (Assistant Secretary) on December 12, 1985. The Department's recovery of funds followed a settlement reached between the Department and the State Agency wherein the State Agency refunded a total of \$33,042 to the Department. The final audit determination issued by the Assistant Secretary had sustained the auditor's questioning the use of \$41,303 in Federal funds awarded under title I of the Library Services and Construction Act, as amended (LSCA) (20 U.S.C. 351 *et seq.*). This notice describes the State Agency's plans for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available to the State Agency. This notice invites comments on the proposed grantback.

DATES: Comments should be received by the Department on or before April 17, 1991.

ADDRESSES: All written comments should be submitted to Mr. Robert Klassen, Director, Public Library Support Staff, U.S. Department of Education, 555 New Jersey Avenue NW., (suite 402), Washington, DC 20208-5571.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Klassen at (202) 219-1303.

SUPPLEMENTARY INFORMATION:

A. Background

The Department has recovered \$33,042 from the Connecticut State Library Agency (State Agency) in response to claims arising from a Federal audit

covering Fiscal Years (FYs) 1981 and 1982.

The claims involved the State Agency's administration of title I of the Library Services and Construction Act (LSCA). Specifically, the final audit determination of the Assistant Secretary found that, during FYs 1981 and 1982, the State Agency had used a total of \$41,303 in funds awarded under title I of the LSCA to provide consultant services and film services to all public libraries rather than only to those public libraries serving areas or groups with inadequate or no library services, as was required by section 102(a)(2) of the LSCA in effect in FYs 1981 and 1982 and by 45 CFR 130.1(a), 130.16(a)(2), and 130.17. (These regulations were in effect for FYs 1979 through 1983). Subsequent settlement negotiations between the Assistant Secretary and the State Agency culminated in the publication of a Notice of Intent to Compromise in the *Federal Register*, November 10, 1987. The amount for which this claim was then compromised was \$33,042. The Settlement Agreement between the Department and the State Agency was executed on January 4, 1988. And, on January 13, 1988, the State of Connecticut remitted a check in the amount of \$33,042 to the Department.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA (1985), provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the State Agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that:

- (1) The practices and procedures of the State Agency that resulted in the final audit determination have been corrected, and that the State Agency is, in all other respects, in compliance with requirements of the applicable program;
- (2) The State Agency has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and
- (3) The use of funds to be awarded under the grantback arrangement in accordance with the State Agency's plan would serve to achieve the purposes of

the program under which funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 456(a)(2) of GEPA, in its July 27, 1990, request for a grantback, the State Agency submitted a plan for the proposed use of the requested funds. In its plan, the State proposes to use the grantback of \$24,782 to improve public library services to areas which are inadequately served by providing training to 32 Connecticut public librarians to improve their communication skills with library users and respond more effectively to their information needs.

In 1988 the State Agency conducted an extensive statewide continuing education survey of continuing education needs. The results of that survey indicated a need for advanced reference services training in four of the six regions of the State. Of the 32 librarians who will receive the Effective Reference Performance Training, eleven represent libraries that were considered adequate at the time the audit (ACN 01-30038) was conducted. The total cost of the proposed training project will be \$48,923, to be paid from the requested grantback of \$24,782 and from FY 1991 LSCA title I funds in the amount of \$24,141. Since two-thirds of the librarians who will be trained are from libraries that were providing inadequate service at the time of the audit, the grantback funds will serve to benefit the population that was affected by the misexpenditures that resulted in the audit exception.

Under the proposed grantback plan, the 32 people receiving training would, in turn, become trainers and would be expected to conduct two workshops within two years following their training to become more effective reference librarians, thus reaching approximately 570 library staff members within those two years. Thus, public library services will be improved in libraries where reference services have been inadequate. The Secretary's cost analysis of the proposed activities and the project budget indicates that the requested amount for the grantback award, which is the maximum amount permitted under section 456(a) of GEPA, is reasonable and necessary to the operation of the proposed grantback project and is justified in light of the costs of the training project.

D. The Secretary's Determination

The Secretary has carefully reviewed the State Agency's request for the repayment of funds, the State Agency's plan (as outlined in section C of the

Notice), and other information submitted by the State Agency. Based upon that review, the Secretary has determined that the conditions contained in section 456 of GEPA have been met. This determination is based upon the best information available to the Secretary at the present time. If this information is at a later date discovered to have been inaccurate or incomplete, the Secretary will not be precluded from taking appropriate administrative action at that time.

E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least thirty days prior to entering into an arrangement to award funds under a grantback, the Secretary must publish in the *Federal Register* a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Connecticut State Library under a grantback arrangement, as authorized by section 456. The grantback award will be in the amount of \$24,782. This amount is 75 percent—the maximum percentage authorized by section 456—of the amount of funds recovered by the Department under the terms of the Settlement Agreement in this case. The Secretary's intent to award the maximum amount of grantback funds possible under section 456 is based upon the determination outlined in section D of this notice.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

Section 456(b) of GEPA provides that any payments under a grantback arrangement shall be subject to terms and conditions which the Secretary deems necessary to accomplish the purposes of the affected programs, including the submission of periodic reports on the use of the repaid funds and evidence that the State Agency has consulted with representatives of the population that benefits from the grantback award.

The State Agency agrees to comply with the following terms and conditions under which payments under a grantback arrangement will be made:

(1) The Connecticut State Library will expend the funds awarded under the grantback in accordance with:

(a) All applicable statutory and regulatory requirements, including those related to the purposes for which LSCA Title I funds may be used.

(b) The plan that was submitted in conjunction with the July 27, 1990 request for grantback, as amended on August 17, 1990, and any other amendments to that plan that are approved in advance of the grantback award by the Secretary.

(2) Pursuant to section 456(c) of GEPA, all funds received under this grantback arrangement must be obligated not later than September 30, 1991, which is three fiscal years following the fiscal year in which the Settlement Agreement was entered into between the Department and the State Agency.

(3) The State Agency must, not later than January 1, 1992, submit a report to the Secretary which:

(a) Indicates how the funds awarded under the grantback have been used;

(b) Shows that the funds awarded under the grantback have been liquidated;

(c) Describes the results and affectiveness of the project for which the funds were spent; and

(d) Describe the consultation with representatives of the population that will benefit from the grantback payments.

(4) Separate accounting records must be maintained documenting the expenditures of funds under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.034)

Dated: March 12, 1991.

Ted Sanders,
Acting Secretary.

[FR Doc. 91-6272 Filed 3-15-91; 8:45 am]

BILLING CODE 4000-01-M

Indian Education National Advisory Council; Meetings

AGENCY: National Advisory Council on Indian Education, Education.

ACTION: Notice of closed meetings.

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

DATES: March 25-27, 1991, 9 a.m. until conclusion of business each day.

ADDRESSES: U.S. Department of Education, 400 Maryland Avenue SW., room 3000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jo Jo Hunt, Executive Director, National Advisory Council on Indian Education,

330 C Street SW., room 4072, Switzer Building, Washington, DC 20202-7556 (202/732-1353).

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

On March 25, 1991, the Council will meet in closed session starting at approximately 9 a.m. and ending at the conclusion of business at approximately 5 p.m. The agenda will consist of review of the Chairman's performance appraisal of the Executive Director; discussion and deliberation on personnel matters concerning Council staff; and discussion of the recommendations of the Proposal Review Committee on discretionary grant applications.

Discussion during the meeting of the Executive Director's performance appraisal and other staff personnel issues is likely to relate solely to the internal personnel rules and practices of an agency and will disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of section 552b(c) of the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b(c)). Discussion during the closed meeting regarding discretionary grant applications may disclose sensitive information about applicants, qualifications of proposed staff, funding levels and requests, and the names and comments of expert reviewers. Such discussion is likely to disclose commercial or financial information obtained from a person which is privileged or confidential and would disclose information of a personal nature where disclosure would constitute a clear unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (4) and (6) of section 552b(c) of the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b(c)).

Under section 5342(b)(2) of subpart 4 of the Indian Education Act, the Council is directed to review applications for assistance submitted under the Indian Education Act and to make

recommendations to the Secretary of Education with respect to their approval. The Proposal Review Committee of the Council will meet in closed session on March 26-27, 1991, starting at approximately 9 a.m. and will end at the conclusion of business each day at approximately 5 p.m. The agenda will consist of reviewing grant applications from individuals for assistance under the fellowship program authorized by subpart 2 of the Indian Education Act and making recommendations to the Secretary regarding their approval.

The discussion is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemption (6) of section 552b(c) of the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b(c)).

The public is being given less than 15 days' notice due to difficulties in scheduling these meetings.

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

Dated: March 12, 1991. Signed at Washington, D.C.

Jo Jo Hunt,

Executive director, National Advisory Council on Indian Education.

[FR Doc. 91-6428 Filed 3-15-91; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services Rehabilitation Training Program; Meeting

AGENCY: Department of Education.

ACTION: Notice of public meeting.

SUMMARY: The Secretary of Education announces a public meeting on the Rehabilitation Training Program authorized by the Rehabilitation Act of 1973, as amended.

The purpose of the meeting is to invite public comments on the following topics related to the training or qualified rehabilitation personnel:

- (1) Are there emerging needs or trends in practice in the vocational rehabilitation field that the Rehabilitation Services Administration (RSA) training program could address?
- (2) Should RSA training funds target the initiation of new training programs or expand and continue ongoing programs?

(3) Are the RSA-funded pre-service training programs meeting the needs of the vocational rehabilitation field in terms of the types of personnel being trained and their abilities to perform actual job functions? For example: (a) Do rehabilitation counselors receive the appropriate skill training for the work required of them? (b) Are the programs funded by RSA adequately addressing the vocational rehabilitation needs of the client? (c) Should there be an emphasis on interdisciplinary training programs?

(4) What should be the role of in-service training? What is the appropriate balance between funding pre-service programs for skills development versus funding in-service training to address skill deficiencies?

Meeting Information: The public meeting is scheduled to be held from 10 a.m. to 3 p.m. on May 9, 1991, at the Holiday Inn Capitol, 550 C Street, SW., Washington, DC.

The Secretary encourages interested parties to attend the public meeting and requests that those parties participating provide a written copy of their comments.

The meeting facilities and proceedings will be accessible to people with disabilities.

SUPPLEMENTARY INFORMATION: The Secretary of Education expects to publish in the near future a notice inviting written comments from the public on a more extensive and specific list of issues regarding the Rehabilitation Training Program.

FOR FURTHER INFORMATION CONTACT: persons desiring to participate or seeking additional information should contact Richard Melia, room 3324 (Switzer Building), 330 C Street, SW., Washington, DC 20202-2531. Telephone (202) 732-1490. TDD users may contact the Program Specialist via the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m. Eastern time.

Authority: 29 U.S.C. 774)

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training Program)

Dated: March 12, 1991.

Ted Sanders,

Acting Secretary of Education.

[FR Doc. 91-6271 Filed 3-15-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC91-6-000, et al.]

Florida Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

March 8, 1991.

Take notice that the following filings have been made with the Commission:

1. Florida Power & Light Company

[Docket No. EC91-6-000]

Take notice that on March 7, 1991, Florida Power & Light Company (FPL) filed an application seeking an order pursuant to section 203 of the Federal Power Act authorizing it to purchase the Robert W. Scherer Unit No. 4 substation and switchyard facilities and an undivided ownership interest in the Robert W. Scherer common switchyard facilities from Georgia Power Company. FPL proposes to purchase the facilities in a series of closing to begin in 1991.

Comment date: April 1, 1991 in accordance with Standard Paragraph E at the end of this notice.

2. MDU Resources Group, Inc.

[Docket No. ES91-17-000]

Take notice that on March 4, 1991, MDU Resources Group, Inc. ("Applicant") filed an application with the Federal Energy Regulatory Commission pursuant to section 204 of the Federal Power Act for authority to issue not more than \$70 million of one or more series of its First Mortgage Bonds or of secured or unsecured medium term notes and an exemption from competitive bidding requirements of the Commission.

Comment date: April 3, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Concerned Citizens for the Environment

[Docket No. EL91-19-000]

Take notice that on March 4, 1991, in the above-captioned proceeding, the Concerned Citizens for the Environment (Concerned Citizens) filed a Complaint for failure to recertify against Inter-Power of New York, Inc. (Inter-Power of N.Y.).

Concerned Citizens state that on July 24, 1985, in Docket No. QF85-312-000, the Commission issued an order granting application for certification as a qualifying cogeneration facility of a proposed facility to be owned by Inter-

Power of N.Y. Concerned Citizens claim that because of major design and location errors, Inter-Power of N.Y. was forced to redesign and locate the facility. Concerned Citizens maintain that the current proposed facility differs dramatically from the description of the facility submitted to the Commission by Inter-Power of N.Y. in 1985. For example, Concerned Citizens state that the facility now proposes to incorporate "three circulating fluidized bed boilers" while the Commission's 1985 order stated that the facility would consist of "two steam turbine-generator sets." Concerned Citizens claim that the facility's electric power production capacity is now proposed to be "200 MW" as opposed to "210.6 MW" as set forth in the company's 1985 application. Concerned Citizens state that the company's 1985 application stated that the facility's primary energy source would be "coal with pelletized municipal waste as a supplemental fuel," and now the facility is proposing to "burn only coal." Concerned Citizens claim that Inter-Power of N.Y. has made substantial alterations to the proposed facility without seeking recertification of the facility in contravention of § 292.207(d) of the Commission's regulations.

Comment date: April 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. 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 (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 91-6296 Filed 3-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Dockets Nos. CP91-1447-000, et al.]

**Tennessee Gas Pipeline Co., et al.;
Natural Gas Certificate Filings**

March 8, 1991.

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Co.

[Docket No. CP91-1447-000]

Take notice that on March 5, 1991, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP91-1447-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Citizens Gas Supply Corporation, a marketer, under the blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that, pursuant to an agreement dated December 28, 1990, under its Rate Schedule FT-A, it proposes to transport up to 30,000 Dth per day equivalent of natural gas. Tennessee indicates that the gas would be transported from Offshore Louisiana, and would be redelivered in Pennsylvania, and West Virginia. Tennessee further indicates that it would transport 30,000 Dth on an average day and 10,950,00 Dth annually.

Tennessee advises that service under § 284.223(a) commenced January 3, 1991, as reported in Docket No. ST91-7148.

Comment date: April 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

**2. Arkla Energy Resources, a division of
Arkla, Inc.**

[Docket No. CP91-1456-000]

Take notice that on March 6, 1991, Arkla Energy Resources, a Division of Arkla, Inc. (AER), 525 Milam Street, Shreveport, Louisiana 71151, filed in Docket No. CP91-1456-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate certain facilities in Oklahoma under its blanket certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

AER specifically proposes to replace and upgrade the maximum allowable operating pressure on sections of Line 6, AER's market lateral serving the City of Wichita, Kansas and to construct and operate one (1) sales tap and related facilities in Oklahoma for the delivery of gas to Arkansas Louisiana Gas Company for resale to domestic customers.

AER states that the gas will be delivered from its general system supply, which it states is adequate to provide the service.

Comment date: April 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

**3. Williston Basin Interstate Pipeline Co.,
Mississippi River Transmission Corp.,
Mississippi River Transmission Corp.,
Williams Natural Gas Co.**

[Docket Nos. CP91-1449-000, CP91-1450-000,
CP91-1451-000, CP91-1454-000]

Take notice that on March 5, 1991, applicants filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued to applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.¹

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

Comment date: April 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

¹ These prior notice requests are not consolidated.

| Docket No. (date filed) | Shipper name (type) | Peak day, average day, annual MMBtu | Receipt points | Delivery points | Contract date, rate schedule, service type | Related docket, start up date |
|---------------------------|--|--|----------------------------|------------------|--|-------------------------------|
| CP91-1449-000 (3-5-91) | Merrion Oil & Gas Corporation (Producer). | 100 50 ¹ 36,500 | WY | WY | 12-19-90, IT-1, Interruptible. | ST91-6936-000, 1-16-91. |
| CP91-1450-000 (3-5-91) | Vesta Energy Company (Marketer/broker). | 100,000 100,000 36,500,000 | OK, LA, TX, AR, IL | IL, MO, AR | 1-18-90, ITS, Interruptible. | ST91-6868-000, 2-1-91. |
| CP91-1451-000 (3-5-91) | The Doe Run Company (End-user). | 1,125 1,125 410,625 | LA, AR, IL, TX, OK | MO | ² 2-1-90, FTS, Firm. | ST91-6975-000, 1-1-91. |
| CP91-1454-000 (3-5-91) | Phillips 66 Natural Gas Company (Gatherer/ processor). | 2,800 2,800 ³ 1,022,000 | CO, KS, MO, OK, TX, WY. | KS, MO, OK | 1-10-91, FTS-1&2, Firm. | ST91-6866-000, 1-10-91. |

¹ Williston Basin's quantities are in dekatherms.

² As amended. MRT explains that its filing is for incremental quantities added by amendment dated December 31, 1990.

³ WNG's quantities are in dekatherms.

| Applicant's address | Blanket docket |
|--|----------------|
| Mississippi River Transmission Corporation, 9900 Clayton Road, St. Louis, Missouri 63124 | CP89-1121-000 |
| Williams Natural Gas Company, P.O. Box 3288, Tulsa, Oklahoma 74101 | CP86-631-000 |
| Williston Basin Interstate Pipeline Company, Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501 | CP89-1118-000 |

4. KN Energy, Inc.

[Docket No. CP91-1385-000]

Take notice that on February 28, 1991, KN Energy, Inc. (KN), P.O. Box 281304, Lakewood, Colorado 80228, filed in Docket No. CP91-1385-000 a request pursuant to § 157.205(b) of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate sales taps for the delivery of gas to end users under KN's blanket certificate issued in Docket Nos. CP83-140-000, CP83-140-001, and CP83-140-002 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

KN states that it requests authorization to construct and operate sales taps to various end users located along its jurisdictional pipelines. KN also states that the proposed sales taps are not prohibited by any of its existing tariffs and that the additional taps will have no significant impact on its peak day and annual deliveries. In addition it is stated that the cost of such taps is estimated to be \$9,200 with the customers reimbursing KN for a portion of such costs.

Comment date: April 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

5. Texas Eastern Transmission Corp.; Superior Offshore Pipeline Co.; Superior Offshore Pipeline Co.; Superior Offshore Pipeline Co.

[Docket No. CP91-1357-000, CP91-1367-000, CP91-1368-000, CP91-1369-000, CP91-1370-000, CP91-1371-000]

Take notice that Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77252-2521, and Superior Offshore Pipeline Co., 12450 Greenspoint Drive, Houston, Texas 77060, (Applicants) filed in the above-

referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP88-136-000, as amended in Docket No. CP88-136-007, and Docket No. CP86-387-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.²

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: April 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

² These prior notice requests are not consolidated.

| Docket number (date filed) | Shipper name (type) | Peak day, average day, annual MMBtu | Receipt points ¹ | Delivery points | Contract date rate schedule, service type | Related docket, start up date |
|----------------------------|---|-------------------------------------|-----------------------------|-----------------|---|-------------------------------|
| CP91-1357-000 (2-26-91) | Texas-Ohio Gas, Inc. (Marketer) | 120,000 120,000 34,800,000 | Various..... | Various..... | IT-1, Interruptible..... | ST91-6530, 12-27-90 |
| CP91-1367-000 (2-27-91) | Kerr-McGee, Corporation (Producer) | 42,000 42,000 5,040,000 | LA..... | LA..... | T-2, Interruptible..... | ST91-6962, 1-1-91. |
| CP91-1368-000 (2-27-91) | ORYX Gas Marketing Limited Partnership (Marketer) | 5,000 5,000 600,000 | LA..... | LA..... | T-2, Interruptible..... | ST91-6965, 2-1-91. |
| CP91-1369-000 (2-27-91) | Samedan Oil Corporation (Producer) | 29,166 29,166 3,499,920 | LA..... | LA..... | T-2, Interruptible..... | ST91-6967, 2-1-91. |
| CP91-1370-000 (2-27-91) | ORYX Gas Marketing Limited Partnership (Marketer) | 5,000 5,000 600,000 | LA..... | LA..... | T-2, Interruptible..... | ST91-6963, 2-1-91. |
| CP91-1371-000 (2-27-91) | Samedan Oil Corporation (Producer) | 28,000 28,000 3,360,000 | LA..... | LA..... | T-2, Interruptible..... | ST91-6966, 1-1-91. |

¹ Offshore Louisiana and offshore Texas are shown as OLA and OTX.

6. El Paso Natural Gas Co., Tennessee Gas Pipeline Co., United Gas Pipe Line Co., United Gas Pipe Line Co.

[Docket No. CP91-1434-000, CP91-1435-000, CP91-1445-000, CP91-1446-000]

Take notice that on March 4, 1991, applicants filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the

Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.³

Information applicable to each transaction, including the identity of the

³ These prior notice requests are not consolidated.

shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by applicants and is summarized in the attached appendix.

Comment date: April 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

| Docket No. ² (date filed) | Applicant | Shipper name | Peak day, ¹ avg. annual | Points of | | Start up date, rate schedule | Related docket(s) |
|--------------------------------------|--|---------------------------------|------------------------------------|---------------------------------------|-------------------------|------------------------------|-------------------|
| | | | | Receipt | Delivery | | |
| CP91-1434-000 3-4-91 | El Paso Natural Gas Company, P.O. Box 1492, El Paso, TX 79978. | Sinclair Oil Corporation. | 204 103 37,595 | All on-system points. | AZ..... | 2-1-91, T-1..... | ST91-6983-000. |
| CP91-1435-000 3-4-91 | Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, TX 77252. | KN Gas Marketing, Inc. | 150,000 150,000 54,740,000 | On LA, Off LA, TX, WV. | WV, OH, PA, KY, NJ, NY. | 1-10-91, IT..... | ST91-6857-000. |
| CP91-1445-000 3-4-91 | United Gas Pipe Line Company, P.O. Box 1478, Houston, TX 77251-1478. | NGC Transportation, Inc. | 154,500 154,500 56,392,500 | On LA, Off LA, On TX, Off TX, AL, MS. | On LA, On TX, MS, FL. | 1-15-91, ITS..... | ST91-7030-000. |
| CP91-1446-000 3-4-91 | United Gas Pipe Line Company. | Cimarron Gas Transmission, Inc. | 82,500 82,500 30,076,000 | On LA..... | On LA..... | 1-1-91, ITS..... | ST91-6802-000. |

¹ Quantities are shown in MMBtu unless otherwise indicated.

² The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

7. Sea Robin Pipeline Co.; Columbia Gulf Transmission Co.; Columbia Gas Transmission Corp.

[Docket No. CP91-1415-000]

Take notice that on March 1, 1991, Sea Robin Pipeline Company (Sea Robin), P.O. Box 2563, Birmingham, Alabama 35202-2563, Columbia Gulf Transmission Company (Columbia Gulf) and Columbia Gas Transmission Corporation (Columbia Transmission) (collectively referred to as Applicants), P.O. Box 1273, Charleston, West Virginia 25325-1273, filed in Docket No. CP91-1415-000 an application pursuant to section 7(b) of the Commission's Regulations under the Natural Gas Act for an order granting permission and approval for the abandonment of an exchange service performed by Applicants, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants seek authority to abandon the exchange service performed pursuant to their agreement dated March 15, 1977. Applicants state that under the terms of this agreement, thermally equivalent volumes of gas are delivered by Sea Robin and Columbia Gas at the outlet of Sea Robin's measuring station at Erath, Louisiana, and by Columbia Gulf to Sea Robin at

the outlet side of the measuring station near the terminus of the Blue Water pipeline system at Egan, Louisiana. It is further stated that this agreement was executed to implement a transportation agreement between Columbia Gulf and Sea Robin, and was authorized by the Commission on August 5, 1977 in Docket No. CP77-365. It is stated that the exchange service was to effect redelivery to Sea Robin of certain volumes of gas purchased by Sea Robin from West Cameron Blocks 609 and 617 and transported by Columbia Gulf to the terminus of the Blue Water pipeline system at Egan, Louisiana, by the exchange of that gas for gas transported by Sea Robin for Columbia Transmission at Erath, Louisiana. Applicants state that the agreements under which the exchange service and transportation service were performed expired November 28, 1990, and the Commission granted abandonment of the transportation service on February 11, 1991 in Docket No. CP91-539-000. It is also stated that no facilities would be abandoned in connection with the abandonment of the exchange service.

Comment date: March 29, 1991, in accordance with Standard Paragraph F at the end of this notice.

Southern Natural Gas Co.

[Docket No. CP91-1298-000, CP91-1299-000,

CP91-1300-000, CP91-1301-000, CP91-1302-000, CP91-1303-000, CP91-1304-000]

Take notice that on February 20, 1991, Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88-316-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.⁴

A summary of each transportation service which includes the shippers identity, the peak day, average day and annual volumes, the receipt point(s), the delivery point(s), the applicable rate schedule, and the docket number and service commencement date of the 120-day automatic authorization under § 284.223 of the Commission's Regulations is provided in the attached appendix.

Comment date: April 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

⁴ These prior notice requests are not consolidated.

| Docket No. ² (date filed) | Applicant | Shipper name | Peak day, ¹ avg. | Points of | | Start up date rate schedule | Related dockets |
|--------------------------------------|-------------------------------|-------------------------------|-----------------------------|--------------------------------------|----------|-----------------------------|---------------------------------|
| | | | | Receipt | Delivery | | |
| CP91-1298-000 (2-20-91) | Southern Natural Gas Company. | Asburn, Georgia... | 251 251 91,615 | Offshore TX & LA, TX, LA, MS, AL. | AL | 1-1-91, FT | CP88-316-000, ST91-6349-000 |
| CP91-1299-000 (2-20-91) | Southern Natural Gas Company. | Fitzgerald, Georgia. | 977 977 356,605 | Offshore LA & TX, LA, TX, MS, AL. | AL | 1-1-91, FT | CP88-316-000, ST91-6346-000. |
| CP91-1300-000 (2-20-91) | Southern Natural Gas Company. | Marshall County Gas District. | 6,000 6,000 2,190,000 | Offshore LA & TX, LA, TX, MS, AL. | AL | 1-1-91, FT | CP88-316-000, ST91-6347-000. |
| CP91-1301-000 (2-20-91) | Southern Natural Gas Company. | Camilla, Georgia... | 472 472 172,280 | Offshore LA & TX, LA, TX, MS, AL. | AL | 1-1-91, FT | CP88-316-000, ST91-6353-000. |
| CP91-1302-000 (2-20-91) | Southern Natural Gas Company. | Cairo, Georgia..... | 754 754 275,210 | Offshore LA & TX, LA, TX, MS, AL. | AL | 1-1-91, FT | CP88-316-000, ST91-6366-000. |
| CP91-1303-000 (2-20-91) | Southern Natural Gas Company. | Bainbridge, Georgia. | 829 829 302,585 | Offshore LA & TX, LA, TX, MS, AL. | AL | 1-1-91, FT | CP88-316-000, ST91-6352-000. |
| CP91-1304-000 (2-20-91) | Southern Natural Gas Company. | Blakely, Georgia... | 352 352 128,480 | Offshore LA & TX, LA, TX, MS, AL. | AL | 1-1-91, FT | CP88-316-000, ST91-6375-000. |

¹ Quantities are shown in Mcf unless otherwise indicated.

² The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-6302 Filed 3-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER90-588-000]

CEI-GPU Parties Power Supply Agreement; Filing

March 12, 1991.

Take notice that on March 8, 1991, the Cleveland Electric Illuminating Company (CEI) tendered for filing an amendment to its filing on September 17, 1990 of a three-year Power Sale Agreement between CEI and the General Public Utilities Companies. The amendment contains additional

information regarding the proposed sale which had been requested by the Commission Staff. CEI requests that the Power Sale Agreement be permitted to become effective as soon as possible, in any event, no later than May 8, 1991.

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 (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 22, 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. 91-6301 Filed 3-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4836-008]

Fourth Branch Associates; Complaint

March 11, 1991.

Take notice that on February 25, 1991, West End Dam Associates (complainant) filed a complaint in which it contends that Fourth Branch Associates (respondent) has violated and continues to violate the Federal Power Act, the Public Utility Regulatory

Policies Act, and the Commission's regulations by encroaching on the property of the exempted Carthage Mill Project No. 5800, located on the Black River, Jefferson County, New York, for which complainant is the lessee-operator. Specifically, complainant alleges that respondent, exemption holder for the neighboring Long Falls Project No. 4636, has submitted to the New York Department of Environmental Conservation a plan to construct a minimum flow gate at complainant's West End Dam, part of the Carthage Mill Project, and has misrepresented the Long Falls Project boundaries as encompassing part of the dam. Complainant alleges further that respondent does not deny complainant's title to the dam and has refused to conclude a boundary agreement with complainant. Lastly, complainant alleges that respondent does not have all the necessary real property interests to support its exemption from licensing. Complainant asks the Commission to order respondent to show cause why it is not in violation of the cited statutes, and that if respondent cannot do so, to revoke its exemption from licensing for the Long Falls Project.

Any person may submit comments regarding this complaint with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 (1990). Respondent is required to file an answer to the complaint pursuant to rules 206 and 213, 18 CFR 385.206 and 385.213 (1990). No replies to the answer will be accepted. In determining the appropriate action to take, the Commission will consider all comments filed. Copies of the complaint are on file with the Commission and are available for public inspection.

Comments and the answer to the complaint must be filed not later than April 26, 1991.

For further information, contact Rachel Hecht at (202) 208-2138.

Lois D. Cashell,

Secretary.

[FR Doc. 91-6300 Filed 3-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF91-25-000]

Glassboro Cogeneration, Inc. Amendment to Filing

March 11, 1991.

On March 6, 1991, Glassboro Cogeneration, Inc. tendered for filing an amendment to its filing in this docket.

The amendment clarifies certain aspects of the ownership organizational structure of the Applicant.

Any person desiring to be heard or objecting to the granting of qualifying status 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 must be filed within 21 days after the date of publication of this notice and must be served on the applicant. 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. 91-6297 Filed 3-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA91-1-59-005, TF91-4-59-002 and TF91-1-59-001]

Northern Natural Gas Co.; Compliance Filing

March 11, 1991.

Take notice that on February 27, 1991, Northern Natural Gas Company (Northern) filed with the Federal Energy Regulatory Commission as part of its FERC Gas Tariff the following tariff sheets:

Original Volume 2

Third Sub Ninety-Sixth Revised Sheet No. 1C
Second Sub Ninety-Seventh Revised 1C
1 Rev 2 Sub Ninety-Seventh Revised 1C

Northern states that the filing is being made to correct the inadvertent error in the PGA Surcharge for Jurisdictional Field Sales in the December 28, 1990 filing and the subsequent filings in Docket Nos. TF91-4-59 and TF91-5-59. Northern further states that the PGA Surcharge for Jurisdictional Field Sales on the tariff sheets listed reflect the correct PGA Surcharge of \$.1665. Northern notes that the tariff sheets in the filing replace tariff sheets that reflect a PGA surcharge of \$.1662.

Northern states that copies of the letter and attachments have been mailed to each of Northern's gas utility customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission,

825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214. All such protests should be filed on or before March 18, 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. 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. 91-6298 Filed 3-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-114-000]

Sabine Pipe Line Co.; Limited Waiver

March 11, 1991.

Take notice that on March 7, 1991, Sabine Pipe Line Company (Sabine) filed with the Federal Energy Regulatory Commission (Commission) petition for limited waiver of certain provisions of its FERC Tariff, Second Revised Volume No. 1, to comply with § 161.3(b) of the Commission's Regulations.

Sabine states that on March 28, 1990, the Commission granted Sabine's petition, in Docket No. RP90-77-000, for a limited waiver of section 5.1 of Sabine's FERC Gas Tariff. Sabine notes that it was permitted to waive its quality specifications as to gas delivered to Sabine from the Former Stockholders of Jones-O'Brien Incorporated (Producer) South Lake Arthur gas supply. Sabine states the Commission stated that the waiver would expire one year from the date of the order.

Sabine states that because of unforeseen events, Producer has not delivered any of the off-specification gas into Sabine's facilities. The current waiver authority will expire on March 28, 1991. Sabine is requesting an extension of the waiver authority to permit it to accept off-specification gas gathered on the WESLA Gathering System for periods after March 28, 1991.

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 18 CFR 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 18, 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. 91-6299 Filed 3-15-91; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3912-9]

Air Quality: Revision to EPA Policy Concerning Ozone Control Strategies and Volatile Organic Compound Reactivity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of revision of EPA policy statement.

SUMMARY: This notice announces the revision of EPA's policy announced in "Recommended Policy on the Control of Volatile Organic Compounds," published on July 8, 1977 (42 FR 35314) and amended on June 4, 1979 (44 FR 32042), May 16, 1980 (45 FR 32424), July 22, 1980 (45 FR 48941), and January 18, 1989 (54 FR 1987). Specifically, this notice adds five halocarbon compounds and four classes of perfluorocarbons to the list of organic compounds which are negligibly reactive and thus may be exempt from regulation under State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone. States may not take credit for controlling these compounds in their ozone SIP control strategies. Elsewhere in today's *Federal Register*, EPA is proposing to change its new source review rules and Federal implementation plan for the Chicago area consistent with this revised policy. That notice also proposes to add a general definition of VOC to 40 CFR part 51 consistent with today's revised policy. Should that general definition be promulgated in final form, today's revised policy statement will be withdrawn as moot.

DATES: This policy revision is effective March 18, 1991.

ADDRESSES: The public docket for this action, A-90-27, is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, room 4, 401 M Street,

SW., Washington, DC. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Kent Berry, Office of Air Quality Planning and Standards, Air Quality Management Division (MD-15), Research Triangle Park, NC 27711, phone (FTS) 629-5505 (919) 541-5505.

SUPPLEMENTARY INFORMATION: In previous policy statements concerning the control of volatile organic compounds (VOC's), the EPA established a list of compounds consisting of methane, ethane, methylene chloride (dichloromethane), methyl chloroform (1,1,1-trichloroethane) and 7 additional chlorofluorocarbons (CFC's) which have negligible photochemical reactivity and thus should be exempt from regulation under SIP's to attain the NAAQS for ozone.

In 1988, the Agency received a request from the Alliance for Responsible CFC Policy (the Alliance), a coalition of CFC producers and users, asking that a number of substitutes for fully-halogenated CFC's be added to EPA's list of negligibly-reactive VOC's. The Alliance cited two primary reasons for their request:

1. The CFC substitutes covered by the request are less photochemically reactive than others currently on the "exempt" list and therefore should also be considered negligibly reactive; and,
2. If the U.S. is to meet its commitments embodied in the Montreal Protocol on Substances That Deplete the Ozone Layer, substitutes for the regulated CFC's must be developed and unnecessary barriers to their commercialization and use should be removed.

On January 18, 1989 (54 FR 1987), EPA partially granted the Alliance petition by adding four non-fully-halogenated CFC substitutes to EPA's list of negligibly-reactive VOC's. The EPA took no action on a number of other candidate chemicals submitted by the Alliance because available information at that time indicated that these chemicals either were not likely to become substitutes for significant uses of CFC's or because they were at an earlier stage in their research and development process. The EPA believed that a convincing case had not been made that they were likely to significantly contribute to industry's effort to shift away from fully-halogenated CFC's thereby reducing the risks of ozone depletion. The Agency indicated that should this situation change in the future, EPA would reconsider whether to add other CFC

substitutes to the list of negligibly-reactive compounds.

On March 9, 1990, the Alliance requested that EPA reconsider its decision not to add several chemicals covered by the earlier petition to the list of negligibly-reactive VOC's. Specifically, the reconsideration request covered the following compounds:

| Compound | Chemical name | CAS number |
|----------|---------------------------------------|------------|
| HCFC 124 | Ethane, 2-chloro-1,1,1,2-tetrafluoro- | 2837-89-0 |
| HFC 125 | Ethane, pentafluoro- | 354-33-6 |
| HFC 134 | Ethane, 1,1,2,2-tetrafluoro- | 359-35-3 |
| HFC 143a | Ethane, 1,1,1-trifluoro- | 420-46-2 |
| HFC 152a | Ethane, 1,1-difluoro- | 75-37-6 |

In addition to reiterating its earlier arguments that these compounds are negligibly reactive in the troposphere and have little or no impact on stratospheric ozone depletion, the Alliance also noted that EPA's decision not to add chemicals to the negligibly-reactive list based on their commercial prospects as CFC substitutes greatly inhibits research and development funding for such uses. In addition, the Alliance noted that in light of recent agreements under the Montreal Protocol to completely phase out production of CFC compounds by the year 2000, there is an increased need to develop and introduce CFC substitutes as quickly as possible.

On February 16, 1990, the Minnesota Mining & Manufacturing Company (3M) submitted a rulemaking petition requesting that the following four classes of perfluorocarbon (PFC) compounds also be added to EPA's list of negligibly-reactive VOC's:

1. Cyclic, branched, or linear, completely fluorinated alkanes.
2. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
3. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.
4. Sulphur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

The 3M petition also requested that EPA take a number of associated actions with regard to PFC's as follows:

1. Amend its regulations relating to new source review (NSR) immediately by means of direct final rulemaking so as to exclude the listed PFC's from the

term "volatile organic compound" (see 54 FR 27299-300, June 28, 1989).

2. In taking any of the following actions, expressly exempt the listed PFC's, clarify that EPA lacks authority to approve or promulgate VOC regulations to the extent that they apply to the listed PFC's, or make such other statements as may be necessary to implement the addition of the listed PFC's to the above list of exempt VOC's:

(a) Final action on the proposal at 54 FR 53080, December 27, 1989, relating to VOC emissions in the Chicago area;

(b) Final action on any currently pending proposal to approve State VOC regulations as part of a SIP;

(c) Any future proposal to approve or promulgate VOC regulations for the purpose of reducing tropospheric ozone; and,

(d) Any future dissemination of guidance or policy on the regulation of VOC's for such purposes, including any changes to the proposed ozone policy at 52 FR 45044, November 24, 1987.

In support of its request, 3M submitted arguments and supporting information purporting to show that the listed PFC's:

1. Are not photochemically reactive in the troposphere.

2. Do not deplete stratospheric ozone.

3. Are generally nontoxic to humans and the environment.

4. Can be useful CFC substitutes in a number of specified applications.

5. That EPA had previously notified 3M that New York rules on PFC's would not be approved or enforced as part of New York's ozone SIP because the PFC's are negligibly reactive.

Reactivity and Tropospheric Ozone Forming Potential

Since the reactivities of the compounds covered by two petition are so low that they cannot be measured experimentally, both petitions cited theoretical predictions of the chemicals' ozone-forming potential. By well-established theory, the first step in the process by which VOC's produce ozone is the reaction of VOC with hydroxyl (OH) radicals. The VOC's that react quickly with OH may or may not produce ozone depending on how the VOC would behave subsequent to the OH attack. The VOC's that react very slowly with OH, however, are certain not to produce significant ozone buildup. Thus, the petitions present data on the OH reaction rate constants (kOH) for the compounds relative to the rate constants for several of the compounds currently listed as negligibly reactive. Ethane is the most reactive of the compounds currently listed. The kOH data presented in the request indicate that the reactivity of the compounds is

at least an order of magnitude less than that of ethane. The EPA agrees that based on this information, these compounds can be considered for addition to the current list of negligibly-reactive VOC's.

EPA Response

The EPA agrees with the two petitions concerning the impact of the listed chemicals on stratospheric ozone depletion. Only one of the listed chemicals (HCFC-124) contains any chlorine or bromine atoms which contribute to stratospheric ozone depletion. In the case of HCFC-124, its ozone depletion potential relative to CFC-11 is only 0.02. The Agency also agrees with the petitions that (1) there is a strong need to remove any unnecessary regulatory obstacles to the development and use of environmentally-acceptable CFC substitutes that have little or no impact on stratospheric ozone depletion, and (2) the listed compounds have potential uses as CFC substitutes. Consequently, the Agency hereby grants those petitions in part by adding the chemicals to the list of compounds that States may exempt from the definition of VOC in their SIP's to attain the ozone NAAQS. The EPA is addressing the balance of the 3M petition in a separate notice of proposed rulemaking also being published today.

The EPA has stated previously (see 45 FR 48941, July 22, 1980) that its policy was to not approve or enforce controls on the compounds it has listed as negligibly-photochemically reactive as part of the federally-enforceable ozone SIP. Consequently, EPA interprets its prior control of SIP's that contain measures to control VOC's as not extending to the compounds listed today. Elsewhere in today's Federal Register, EPA is proposing changes to its NSR rules and its promulgation of Federal implementation plan rules for the Chicago area consistent with this revised policy. Pending final action on the general definition of VOC in 40 CFR part 51 discussed below, the EPA will rely on today's revised policy in considering all future approvals or promulgations of implementation plan provisions designed to attain or maintain the NAAQS for ozone. Based on this revised policy, EPA anticipates that such rulemaking actions will contain exemptions for these and previously listed negligibly-reactive VOC's. Of course, because this revised policy statement is not a binding regulation, EPA remains free at this time to depart from it in evaluating the merits of any particular rule regarding control of tropospheric ozone. However,

because EPA believes that such case-by-case consideration is unnecessary, in the proposal being published today, EPA is also proposing to codify in 40 CFR part 51 a general definition of VOC for all SIP development purposes that would exempt all of the compounds on the nonreactive list being revised by today's policy statement. Should EPA adopt that proposal as a final regulation, there would be no need to consider reactivity of the listed compounds on a case-by-case basis and the revised policy statement will be withdrawn as moot. Finally, where a State proposes to allow an individual source to use a test method for including negligibly-reactive compounds that is different from or not specified in the approved SIP, such change must be submitted to EPA for approval as a SIP revision. Under EPA's revised SIP processing procedures (54 FR 2214, Jan 19, 1989), EPA anticipates that such change can be acted upon expeditiously as a "Table 3" action.

In addition to the above procedures for using new or modified test methods, it is also important to note that the proposed part 51 general definition of VOC includes a provision that allows EPA or the State to require a source owner or operator, as a precondition to excluding negligibly-reactive compounds for purposes of determining compliance, to provide monitoring methods and/or monitoring results demonstrating, to the satisfaction of EPA or the State, the amount of negligibly-reactive compounds in the source's emissions.¹ In order to accurately determine compliance with emissions limitations under this revised policy statement, EPA will follow this procedure as a matter of policy pending final action on today's proposal. The Agency expects that it will be necessary to request such monitoring method or data in only a small fraction of the cases where negligibly-reactive compounds will be excluded. As discussed in the preamble to the proposed rule, the situations where such information may be needed typically involve emissions streams where (1) VOC's and negligibly-reactive compounds are mixed together, or (2) there are a large number of negligibly-reactive compounds or the chemical composition of some of the

¹ Note that in any situation where a State allows a source to exclude any of these negligibly-reactive compounds, EPA would retain independent authority to request a source to provide monitoring methods and/or monitoring results demonstrating, to the satisfaction of EPA, the amount of negligibly-reactive compounds in the source's emissions. This authority would exist even where that demonstration satisfied the State.

negligibly-reactive compounds is not known.

It should be noted that some of the compounds subject to exemption by today's action have potential impacts on health and the environment that are of concern to EPA. While necessary in the near term to replace CFC's hydrochlorofluorocarbons (HCFC's) nonetheless do contain chlorine which depletes stratospheric ozone. Therefore, as discussed below, they will be phased out in the long run. Under the Clean Air Act (CAA) Amendments of 1990, HCFC's will be phased out by 2030. Likewise, PFC's have very long atmospheric lifetimes and are greenhouse gases. Accordingly, today's action making HCFC's and PFC's subject to exemption from regulation for purposes of limiting tropospheric ozone formation does not preclude future regulation of these substances for other purposes.

For example, the United States is a party to the Montreal Protocol on Substances That Deplete the Ozone Layer, and EPA is promulgating regulations under title VI of the CAA Amendments of 1990 to implement a phase-out of the most harmful ozone-depleting substances. At the second meeting of the parties to the Protocol held in June 1990, the United States agreed to a non-binding resolution that nations limit the use of HCFC's to those applications for which other substances are not feasible and that they stop producing HCFC's by 2020 if possible or by 2040 at the latest. The CAA Amendments of 1990 supersede the Montreal Protocol in the United States. It goes further and mandates a phase-out of HCFC's by 2030.

Today's revised policy adding certain chemicals to the list of negligibly-reactive compounds is being taken in the context of EPA's implementation of the Montreal Protocol and the CAA Amendments and is not intended to reopen, at this time, broader issues of exempting other chemicals that may be negligibly reactive. The effect of this action will be to facilitate the transition away from known stratospheric ozone-depleting chemicals without adversely affecting efforts to control ground-level ozone concentrations. This action does not affect ongoing or future toxicity reviews of these or other proposed CFC substitutes. Moreover, as noted above, under the CAA Amendments of 1990, CFC substitutes, possibly including one or more of the chemicals covered by this notice, will be subject to regulatory controls.

Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a

substantial number of small entities because it relaxes current regulatory requirements rather than impose new ones. This proposal was submitted to the Office of Management and Budget (OMB) as required by Executive Order (E.O.) 12291. Any written comments from OMB and any EPA responses to those comments are included in the Docket. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (U.S.C. 3501 *et seq.*). This notice has no Federalism implications under E.O. 12612 since it imposes no new requirements on States or sources. Instead, it provides additional flexibility to States to exempt certain compounds from ozone SIP control programs.

Dated: March 6, 1991.

William K. Reilly,
Administrator.

[FR Doc. 91-6215 Filed 3-15-91; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30311; FRL-3874-4]

Malathion; Deletion of Certain Uses and Directions for Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete certain uses and directions for use for Malathion.

SUMMARY: This Notice announces that American Cyanamid Company and Cheminova Agro A/S, registrants of technical active ingredient malathion in the United States, have requested to amend their technical labels by deleting tobacco, forestry and indoor uses of malathion (including direct animal treatment, stored grain use, and use in food handling establishments). Cyanamid's affected products are Cythion Technical (EPA Reg. No. 241-77) and Malathion Technical Insecticide (EPA Reg. No. 241-76) and Cheminova's affected product is Fyfanon Technical (EPA Reg. No. 4787-5). EPA intends to approve the proposed amendments from American Cyanamid Company and Cheminova Agro A/S for their technical product labels. EPA is at this time soliciting comments on these proposed amendments and the Malathion Reregistration Task Force proposal to support only certain food uses of the chemical.

DATES: Written comments must be submitted on or before June 17, 1991.

ADDRESSES: Send three copies of your written comments identified by the docket control number OPP-30311 to: Public Docket Freedom of Information

Branch, Field Operations Division (H7504C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne S. Edwards, Special Review and Reregistration Division (H7508C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Reregistration Branch, Crystal Station 1, WF32D6, 2805 Jefferson Davis Highway, Arlington, VA, (703)308-8046.

SUPPLEMENTARY INFORMATION:

Malathion is the commonly accepted name for o,o-dimethyl phosphorodithioate of diethyl mercaptosuccinate. It is a broad spectrum organophosphate insecticide that was initially registered as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act in 1956 by the American Cyanamid Company. Malathion is currently used in the formulation of insecticide products for use on terrestrial food crops, terrestrial nonfood crops, greenhouse food use, greenhouse (nonfood use), aquatic food use, aquatic nonfood use, and domestic and nondomestic use. Malathion is marketed by American Cyanamid Company under the trade name Cythion and by Cheminova Agro A/S under the tradename Fyfanon. The Malathion Reregistration Task Force (MRTF) is comprised of these two companies. Since, in the future, there will no longer be malathion manufacturing-use products available from which to formulate registered end-use malathion products for the uses listed in this Notice, all malathion registrants are being notified by certified mail that they are being given the opportunity to commit to generate data in support of the reregistration of uses listed in this Notice.

Among the currently registered food/ feed crops, the MRTF has announced its intention of only supporting the following formulations and crops: 57% Emulsifiable Concentrate (EC) on alfalfa, avocado, dry and succulent beans, blueberries, cherries, clover, field corn, sweet corn, cottonseed, cucumbers, grapes/raisins, grasses, head and leaf lettuce, bulb and green onions, oranges, bell peppers, white potatoes, grain sorghum, rice, strawberries, tomatoes, and wheat; Ultralow Volume (ULV) on alfalfa, dry and succulent beans, blueberries, cherries, clover, corn, cotton, grasses.

rice, sorghum and wheat; and Ready-to-Use (RTU) on cotton.

The uses that are being deleted for this chemical are as follows:

AQUATIC FOOD: cranberry.

FOOD CROP:

Brassica leafy vegetables: broccoli, Brussels sprouts, cabbage, cauliflower, collards, kale, kohlrabi, and mustard greens.

Bulb vegetables: garlic, leeks, and shallots.

Cereal grains: barley, oats, rye, and wild rice.

Citrus fruits: kumquats, lemons, limes, and tangerines.

Curcubit vegetables: melons, pumpkins, and squash.

Foliage of legume vegetables: cowpea forage and hay, pea vines and hay, and soybean forage, hay and straw.

Fruiting vegetables: eggplant.

Leafy vegetables: celery, dandelions, endive (escarole), parsley, spinach, and swiss chard.

Leaves of roots and tuber vegetables: beet greens, salsify tops, sugar beet tops, and turnip tops.

Legume vegetables: lentils, lupine seed, peas, and soybeans.

Miscellaneous commodities: asparagus, dates, figs, flax, guavas, hops, mangoes, mint, mushrooms, okra, papayas, passion fruit, peanuts, pineapples, safflower seed, watercress.

Nongrass animal feeds: Birdsfoot trefoil.

Lespedeza forage and hay, lupine forage and hay, and vetch forage and hay.

Pome fruits: apples, pears, and quince.

Roots and tuber vegetables: beets, carrots, horseradish, parsnips, radishes, rutabagas, salsify, sugar beet roots, sweet potatoes, and turnips.

Small fruits and berries: blackberries, boysenberries, cranberries, currants, dewberries, gooseberries, loganberries, raspberries, and strawberries (soil incorporation).

Stone fruits: apricots, nectarines, peaches, and plums (fresh prunes).

Tree nuts: almonds, chestnuts, filberts, Macadamia nuts, pecans, and walnuts.

FORESTRY: forest trees (including douglas fir, eastern pine, hemlock, larch, pines, red pine, spruce, and true fir).

GREENHOUSE FOOD USE: asparagus, beans, beets, celery, cole crops (including broccoli, cabbage, kale, mustard greens and turnips), corn, cucumber, eggplant, endive, lettuce, melons, mushrooms, onions, peas, peppers, potatoes, radish, spinach, squash, summer squash, tomatoes, and watercress.

INDOOR USE: stored commodity treatment for almonds, barley, field corn, field or garden seeds, grapes (raisins), oats, peanuts, rice, rye, sorghum, sunflower, wheat, bagged citrus pulp, and cattle feed concentrate blocks (non-medicated), pet and domestic animal uses for beef cattle, cats, chickens, dairy cattle (lactating and nonlactating), dogs, ducks, geese, goats, hogs, horses (including ponies), pigeons, sheep and turkeys; animal premise uses for dairy and livestock barns, stables and pens, feed rooms, poultry houses, manure plies, kennels, rabbits on wire, beef cattle feed lots and holding pens, cat and dog sleeping quarters, poultry houses; human clothing (woolens and

other fabrics), mattresses; and commercial and industrial uses for bagged flour, cereal processing plants, commercial establishments, dry milk processing plants, eating establishments, food processing plants, packaged cereals, pet foods and feed stuff.

TERRESTRIAL NONFOOD: tobacco (including transplant beds).

EPA is now soliciting comments on these proposed amendments. Interested persons are invited to submit their written comments to the address given above.

Dated: March 11, 1991.

Allan S. Abramson,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 91-6367 Filed 3-15-91; 8:45 am]

BILLING CODE 6560-50-F

IOPTS-62103; FRL-3883-2]

Asbestos in Buildings; Establishment of Administrative Record

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of establishment of public administrative record.

SUMMARY: EPA is establishing a public record of those documents the Agency will consider in deciding whether to commence rulemaking under the Toxic Substances Control Act (TSCA) on friable asbestos-containing materials (ACM) in public and commercial buildings other than schools.

ADDRESSES: The record, designated OPTS-211023A is located at the TSCA Public Docket Office at the following address: Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460. The record will be available for review and copying from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 382-3949, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 4, 1989 (54 FR 13632), EPA announced its denial of a citizens' petition filed by the Service Employees International Union (SEIU) under section 21 of TSCA. That petition requested EPA to initiate rulemaking under section 6 of TSCA to control friable ACM in public and commercial buildings. While EPA denied SEIU's 1989 request for federal rules under

TSCA, the Agency stated that it had not ruled out a regulatory response at some later time. Moreover, EPA had indicated in a February 1988 Report to Congress that it would revisit the issue in approximately 3 years.

SEIU responded to EPA's denial of its petition by filing a lawsuit in federal district court in the District of Columbia seeking to compel EPA to initiate rulemaking. *SEIU v. Reilly* (No. 89-0851). During the course of that litigation, SEIU filed an unopposed motion for continuance, requesting that the case be stayed pending the outcome of a series of public meetings to address the issue of asbestos in public and commercial buildings. These meetings, convened by the Conservation Foundation under EPA auspices were known as the Asbestos Policy Dialogue. It was SEIU's view that if the participants in the public meetings could reach agreement on matters of asbestos policy, it would significantly increase the likelihood that EPA would voluntarily initiate a rulemaking proceeding. After considering SEIU's motion, the court postponed the lawsuit until further notice.

The Asbestos Policy Dialogue was attended by representatives of all major interests concerned with asbestos in public and commercial buildings. Meetings continued through early April 1990. The Conservation Foundation submitted a final report to the participants in the Dialogue on June 15, 1990.

In response to SEIU's subsequent request for EPA to explain its next steps regarding asbestos in public and commercial buildings, the Agency sent a letter (dated November 14, 1990) to SEIU President Sweeney. In that letter, EPA stated that it believed it would be able to make a definitive determination whether to commence a rulemaking only after it received three important sets of information expected to be available within the first few months of 1991. The Agency stated that it expected to be able to make such a determination by July 1991.

The information EPA referred to in its letter consisted of public comments on a rule proposed by the Occupational Safety and Health Administration (OSHA) to expand notification requirements and protections for people working near asbestos, a written evaluation of the Agency's program on asbestos in schools under the Asbestos Hazard Emergency Response Act (AHERA), and a literature review of scientific studies on the risks of asbestos being conducted by the Health Effects Institute—Asbestos Research

(HEI-AR). The November 14 letter contains further details explaining the need for this information.

Meanwhile, SEIU had requested the court to reopen the lawsuit. A status conference was held resulting in a December 19, 1990, court order that continued to hold the case in abeyance until July 1, 1991. By that time, the court expected EPA would make a decision as to whether the Agency would initiate rulemaking proceedings pursuant to section 6 of TSCA regarding asbestos in non-school public and commercial buildings.

Accordingly, establishment of an administrative record is prompted by two events--EPA's fulfillment of its objective in the 1988 Report to Congress to revisit the rulemaking issue and the court's December 1990 order. The record will be an addendum to the administrative record created for the denial of SEIU's section 21 petition in April 1989. That record was designated OPTS-211023. The new record, designated OPTS-211023A, incorporates the earlier record.

All documents considered by EPA to be relevant to its decision will be placed in the file, including the three sets of information identified in EPA's November 14, 1990, letter to SEIU President Sweeney and all other relevant information. EPA will add documents to the file, excluding deliberative process materials, up to the date of its decision. Documents cited in any document placed in the file will be considered to be in the administrative record by virtue of such reference.

Dated: March 8, 1991.

Mark A. Greenwood,

Director, Office of Toxic Substances.

[FR Doc. 91-6369 Filed 3-15-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-59904; FRL 3882-7]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the *Federal Register* of May 13, 1983 (48

FR 21722). In the *Federal Register* of November 11, 1984, (49 FR 48066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 17 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 91-89, February 20, 1991.

Y 91-90, 91-91, 91-92, 91-93, March 7, 1991.

Y 91-94, March 18, 1991.

Y 91-95, 91-96, 91-97, 91-98, 91-99, 91-100, 91-101, March 7, 1991.

Y 91-102, March 12, 1991.

Y 91-103, 91-104, 91-105, March 13, 1991.

FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460. (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 91-89

Manufacturer: Henkel Corporation.
Chemical: (G) C6-C18 monobasic acids and C4-C15 dibasic acids esterified with propylene glycol.

Use/Production: (S) Plasticizer for vinyl chloride resin. Prod. range: 450,000-900,000 kg/yr.

Toxicity Data: Acute oral toxicity: LD50 > 5 g/kg species (rat).

Y 91-90

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-91

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-92

Manufacturer: Lander Labs Inc.

Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-93

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-94

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-95

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-96

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-97

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-98

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-99

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-100

Manufacturer: Lander Labs Inc.
Chemical: (G) Alkyl acrylate copolymer.

Use/Production: (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-101

Manufacturer. Lander Labs Inc.
Chemical. (G) Alkyl acrylate copolymer.

Use/Production. (S) Polymer for controlling release of pesticide. Prod. range: Confidential.

Y 91-102

Importer. U.S. Paint Corporation.
Chemical. (G) Polymers: alkyl acrylate, styrene.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 91-103

Manufacturer. Confidential.
Chemical. (G) Aqueous polyurethane dispersion.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 91-104

Manufacturer. Confidential.
Chemical. (G) Polyester.

Use/Production. (G) Polyester intermediate for resin synthesis. Prod. range: Confidential.

Y 91-105

Manufacturer. Confidential.
Chemical. (G) A salt of an acrylic polymer.

Use/Production. (G) Polymeric component of ink. Prod. range: Confidential.

Dated: March 12, 1991.

Gerry Brown,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-6370 Filed 3-15-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-51760; FRL 3885-1]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of 114 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 91-430, April 13, 1991.
P 91-431, 91-432, 91-433, 91-434, 91-435, 91-436, 91-437, 91-438, 91-439, 91-440, 91-441, 91-442, April 14, 1991.
P 91-443, 91-444, 91-445, 91-446, 91-448, 91-449, April 15, 1991.
P 91-450, April 21, 1991.
P 91-451, April 15, 1991.
P 91-452, 91-453, 91-454, April 16, 1991.
P 91-455, April 15, 1991.
P 91-456, 91-457, 91-458, 91-459, 91-460, 91-461, 91-462, April 16, 1991.
P 91-464, 91-465, 91-466, 91-467, 91-468, 91-469, 91-470, 91-471, 91-472, April 17, 1991.
P 91-473, 91-474, 91-475, 91-476, 91-477, 91-478, 91-479, 91-480, 91-481, 91-482, 91-483, 91-484, 91-485, April 21, 1991.
P 91-486, 91-487, 91-488, April 22, 1991.
P 91-489, April 27, 1991.
P 91-490, 91-491, 91-492, 91-493, 91-494, 91-495, 91-496, April 23, 1991.
P 91-497, April 27, 1991.
P 91-498, 91-499, 91-500, April 24, 1991.
P 91-501, 91-502, April 27, 1991.
P 91-504, 91-505, April 28, 1991.
P 91-506, 91-510, 91-511, 91-512, 91-513, 91-514, 91-515, 91-516, 91-517, 91-518, April 30, 1991.
P 91-519, 91-520, 91-521, 91-522, 91-523, 91-524, 91-525, 91-526, 91-527, 91-528, 91-529, 91-530, May 4, 1991.
P 91-531, 91-532, 91-533, 91-534, 91-535, 91-536, 91-537, 91-538, 91-539, 91-540, 91-541, 91-542, 91-543, 91-544, 91-545, 91-546, May 5, 1991.
P 91-547, May 7, 1991.
P 91-549, 91-550, May 8, 1991.
Written comments by:
P 91-430, March 14, 1991.
P 91-431, 91-432, 91-433, 91-434, 91-435, 91-436, 91-437, 91-438, 91-439, 91-440, 91-441, 91-442, March 15, 1991.
P 91-443, 91-444, 91-445, 91-446, 91-448, 91-449, March 16, 1991.
P 91-450, March 22, 1991.
P 91-451, March 16, 1991.
P 91-452, 91-453, 91-454, March 17, 1991.
P 91-455, March 16, 1991.
P 91-456, 91-457, 91-458, 91-459, 91-460, 91-461, 91-462, March 17, 1991.
P 91-464, 91-465, 91-466, 91-467, 91-468, 91-469, 91-470, 91-471, 91-472, March 18, 1991.
P 91-473, 91-474, 91-475, 91-476, 91-477, 91-478, 91-479, 91-480, 91-481, 91-482, 91-483, 91-484, 91-485, March 22, 1991.
P 91-486, 91-487, 91-488, March 23, 1991.
P 91-489, March 28, 1991.
P 91-490, 91-491, 91-492, 91-493, 91-494, 91-495, 91-496, March 24, 1991.

P 91-497, March 28, 1991.

P 91-498, 91-499, 91-500, March 25, 1991.

P 91-501, 91-502, March 28, 1991.

P 91-504, 91-505, March 29, 1991.

P 91-506, 91-510, 91-511, 91-512, 91-513, 91-514, 91-515, 91-516, 91-517, 91-518, March 31, 1991.

P 91-519, 91-520, 91-521, 91-522, 91-523, 91-524, 91-525, 91-526, 91-527, 91-528, 91-529, 91-530, April 4, 1991.

P 91-531, 91-532, 91-533, 91-534, 91-535, 91-536, 91-537, 91-538, 91-539, 91-540, 91-541, 91-542, 91-543, 91-544, 91-545, 91-546, April 5, 1991.

P 91-547, April 7, 1991.

P 91-549, 91-550, April 8, 1991.

ADDRESS: Written comments, identified by the document control number "(OPTS-51760)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm. L-100, Washington, DC, 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE-G004 at the above address between 8 a.m. and non and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 91-430

Manufacturer. Confidential.

Chemical. (G) Acrylated shellac.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-431

Importer. Confidential.

Chemical. (G) Isophthalic alkyd resin.

Use/Import. (G) Oil inks. Import range: Confidential.

P 91-432

Manufacturer. Westvaco Corporation.

Chemical. (G) Carboxyethylated copolymer tall oil polyalkylene polyamine, 2-amino-2-methyl-propanol salt.

Use/Production. (S) Water based ink resin. Prod. range: Confidential.

P 91-433

Manufacturer. Confidential.
Chemical. (G) Carboxyethylated complex, tall oil polyalkylene polyamine 2-amino-2-methyl-propanol salt.

Use/Production. (S) Water based ink resin. Prod. range: Confidential.

P 91-434

Manufacturer. Confidential.
Chemical. (G) Carboxyethylated complex tall oil polyalkylene polyamine 2-amino-2-methyl propanol salt.

Use/Production. (S) Water based ink resin. Prod. range: Confidential.

P 91-435

Manufacturer. Confidential.
Chemical. (G) Carboxyethylated complex tall oil polyalkylene polyamine 2-amino-2-methyl propanol salt.

Use/Production. (S) Water based ink resin. Prod. range: Confidential.

P 91-436

Manufacturer. Confidential.
Chemical. (G) Carboxyethylated complex, tall oil polyalkylene polyamine 2-amino-2-methyl propanol salt.

Use/Production. (S) Water based ink resin. Prod. range: Confidential.

P 91-437

Manufacturer. Confidential.
Chemical. (G) Carboxyethylated complex tall oil polyalkylene 2-amino-2-methyl-propanol salt.

Use/Production. (S) Water based ink resin. Prod. range: Confidential.

P 91-438

Manufacturer. Confidential.
Chemical. (G) Carboxyethylated complex tall oil polyalkylene polyamine 2-amino-2-methyl-propanol salt.

Use/Production. (S) Water based ink resin. Prod. range: Confidential.

P 91-439

Manufacturer. Confidential.
Chemical. (G) Carboxyethylated complex tall oil polyalkylene polyamines, 2-amino-2-methyl-propanol salt.

Use/Production. (S) Water based ink resin. Prod. range: Confidential.

P 91-440

Importer. Confidential.
Chemical. (G) Isobenzofurandione, derivative.

Use/Import. (G) Organics intermediate. Import range: Confidential.

P 91-441

Manufacturer. Confidential.
Chemical. (G) Dimer fatty acids; tetrahydrophthalic anhydride ethylene diamine.

Use/Production. (S) Resin for use in flexographic printing inks. Prod. range: 200,000-400,000 kg/yr.

P 91-442

Importer. Nicca U.S.A., Inc.
Chemical. (G) Ethylene oxide adduct of fatty acid ester with pentaerythritol.

Use/Import. (S) Intermediate for the production of a disperse dye carrier for finishing polyester fibers. Import range: Confidential.

P 91-443

Importer. Confidential.
Chemical. (G) Fluoroethylene-vinyl ether copolymer.

Use/Import. (S) Paint or coating component. Import range: Confidential.

P 91-444

Manufacturer. Sartomer Company.
Chemical. (G) Anhydride copolymer-methacrylate mixed half ester.

Use/Production. (S) Electronic photoresist solder masks, printing plates printing inks. Prod. range: Confidential.

P 91-445

Manufacturer. Confidential.
Chemical. (G) Ammonium salt of an acid functional acrylic.

Use/Production. (G) Paint. Prod. range: Confidential.

P 91-446

Manufacturer. Confidential.
Chemical. (G) Triethyl amine salt of an acid functional acrylic.

Use/Production. (G) Paint. Prod. range: Confidential.

P 91-448

Manufacturer. Confidential.
Chemical. (G) Per halo butyric acid ester.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2 g/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 91-449

Manufacturer. Confidential.
Chemical. (G) Per halo crotonic acid ester.

Use/Production. (G) Activator used on manufacture of synthetic rubber. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 91-450

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Unsaturated urethane resin.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-451

Manufacturer. Confidential.
Chemical. (G) Alkyl hydroxylamine.
Use/Production. (G) Polymerizatics additive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 91-452

Importer. Confidential.
Chemical. (G) Bicyclic acetal.
Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative. Phototoxicity: negative species (guinea pig). Photoallergenicity: negative species (guinea pig).

P 91-453

Manufacturer. Confidential.
Chemical. (G) Alkyl ammonium salt of a transition metal halide.
Use/Production. (G) Intermediate. Prod. range: Confidential.

P 91-454

Manufacturer. Confidential.
Chemical. (G) Alkyl ammonium salt of a transition metal halide.
Use/Production. (G) Intermediate. Prod. range: Confidential.

P 91-455

Manufacturer. Confidential.
Chemical. (G) Reaction product of epoxy phenolic nonvolic resin with methacrylic acid.

Use/Production. (G) Resin used to make fiber reinforced laminates. Prod. range: Confidential.

P 91-456

Manufacturer. Confidential.
Chemical. (G) Substituted polyhydroxy benzene derivative.
Use/Production. (G) Metal treatment chemical intermediate. Prod. range: Confidential.

P 91-457

Manufacturer. Dow Corning Corporation.
Chemical. (G) Alkyloxy ketal.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1,686 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Mutagenicity: positive. Skin irritation: negligible species (rabbit).

P 91-453

Manufacturer. Dow Corning Corporation.

Chemical. (G) Chloroalkylsilane.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Eye irritation: strong species (rabbit). Skin irritation: strong species (rabbit).

P 91-459

Manufacturer. Dow Corning Corporation.

Chemical. (G) Acetamidoalkylsilane.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Mutagenicity: negative. Skin irritation: negligible species (rabbit).

P 91-480

Manufacturer. Dow Corning Corporation.

Chemical. (G)

Chloro(fluoroalkyl)silane.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Eye irritation: strong species (rabbit). Skin irritation: strong species (rabbit).

P 91-481

Manufacturer. Dow Corning Corporation.

Chemical. (G)

Acetamido(fluoroalkyl)silane.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 91-482

Manufacturer. Dow Corning Corporation.

Chemical. (G) Alkyl-silyl and (fluoroalkyl)silyl-modified silica.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 91-484

Manufacturer. Confidential.

Chemical. (G) Benzoic acid, substituted, alkyl ester.

Use/Production. (G) Hydrocarbon fuel in lubrication oil addition. Prod. range: Confidential.

P 91-485

Manufacturer. Confidential.

Chemical. (G) Benzoic acid, substituted, alkyl ester.

Use/Production. (G) Hydrocarbon fuel in lubrication oil addition. Prod. range: Confidential.

P 91-486

Manufacturer. Confidential.

Chemical. (G) Benzoic acid, substituted, alkyl ester.

Use/Production. (G) Hydrocarbon fuel in lubrication oil addition. Prod. range: Confidential.

P 91-487

Manufacturer. Confidential.

Chemical. (G) Benzoic acid, substituted, alkyl ester.

Use/Production. (G) Hydrocarbon fuel in lubrication oil addition. Prod. range: Confidential.

P 91-488

Manufacturer. Confidential.

Chemical. (G) Benzoic acid, substituted, alkyl ester.

Use/Production. (G) Hydrocarbon fuel in lubrication oil addition. Prod. range: Confidential.

P 91-489

Manufacturer. Confidential.

Chemical. (G) Benzoic acid, substituted, alkyl ester.

Use/Production. (G) Hydrocarbon fuel in lubrication oil addition. Prod. range: Confidential.

P 91-470

Manufacturer. Confidential.

Chemical. (G) Benzoic acid, substituted, alkyl ester.

Use/Production. (G) Hydrocarbon fuel in lubrication oil addition. Prod. range: Confidential.

P 91-471

Manufacturer. Confidential.

Chemical. (G) Benzoic acid, substituted, alkyl ester.

Use/Production. (G) Hydrocarbon fuel in lubrication oil addition. Prod. range: Confidential.

P 91-472

Manufacturer. Confidential.

Chemical. (G) Benzoic acid, substituted, alkyl ester.

Use/Production. (G) Hydrocarbon fuel in lubrication oil addition. Prod. range: Confidential.

P 91-473

Importer. Confidential.

Chemical. (G) Polyester urethane.

Use/Import. (S) Coating of leather materials. Import range: 200,000-350,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg. Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 91-474

Manufacturer. Arizona Chemical Company.

Chemical. (G) Ester of maleic modified hydrocarbon, rosin, fatty acid copolymer.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-475

Manufacturer. Arizona Chemical Company.

Chemical. (G) Ester of maleic modified hydrocarbon, rosin, fatty acid copolymer.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-476

Manufacturer. Arizona Chemical Company.

Chemical. (G) Ester of maleic modified hydrocarbon rosin, fatty acid copolymer.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-477

Manufacturer. Arizona Chemical Company.

Chemical. (G) Ester of maleic modified hydrocarbon rosin, fatty acid copolymer.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-478

Manufacturer. Arizona Chemical Company.

Chemical. (G) Ester of maleic modified hydrocarbon, rosin, fatty acid copolymer.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-479

Manufacturer. Arizona Chemical Company.

Chemical. (G) Ester of maleic modified, hydrocarbon, rosin fatty acid copolymer.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-480

Manufacturer. Arizona Chemical Company.

Chemical. (G) Ester of maleic modified hydrocarbon, rosin, fatty acid copolymer.

Use/Production. (G) Printing ink resin.
Prod. range: Confidential.

P 91-481

Manufacturer. Arizona Chemical Company.

Chemical. (G) Ester of maleic modified, hydrocarbon rosin, fatty acid copolymer.

Use/Production. (G) Printing ink resin.
Prod. range: Confidential.

P 91-482

Manufacturer. Arizona Chemical Company.

Chemical. (G) Ester of maleic modified hydrocarbon, rosin, fatty acid copolymer.

Use/Production. (G) Printing ink resin.
Prod. range: Confidential.

P 91-483

Importer. Arizona Chemical Company.

Chemical. (G) Magnesium substituted hydroxy carbonate hydrate.

Use/Import. (S) Heat stabilizer for PVC and PVDC. Import range: Confidential.

P 91-484

Importer. Confidential.

Chemical. (G) Magnesium oxide substituted oxide carbonate hydrate.

Use/Import. (S) Heat stabilizer for PVC. Import range: Confidential.

P 91-485

Importer. Confidential.

Chemical. (G) Magnesium substituted hydroxy perchloric carbonate hydrate.

Use/Import. (S) Heat stabilizer for PVC. Import range: Confidential.

P 91-486

Manufacturer. Shell Oil Company.

Chemical. (G) Poyol modified bisphenol A-epichlorohydrin polymer.

Use/Production. (G) Baked coatings for metal industry. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 1,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Static acute toxicity: time LC50 24H > 1,000 mg/l-1 species (rainbow trout). Skin irritation: moderate species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 91-487

Importer. Confidential.

Chemical. (G) Carbamine derivative.

Use/Import. (G) Coloring agent.
Import range: Confidential.

Toxicity Data. Mutagenicity: negative.

P 91-488

Manufacturer. Confidential.

Chemical. (S) Rosin, dicyclopentadine, cyclico dimers, dimer fatty acids soya oil maleicanhydride fumaric acid reaction product.

Use/Production. (S) Printing ink vehicles. Prod. range: 2,000,000-4,000,000 kg/yr.

P 91-489

Importer. Hoechst Celanese Corporation.

Chemical. (G) Epoxy resin ester polymerized with acrylic acid/acrylates.

Use/Import. (S) Binder in industrial coatings. Import range: 10,000-40,000 kg/yr.

P 91-490

Importer. Basf Corporation.

Chemical. (G) Substituted ethanolamine.

Use/Import. (G) Chemical intermediate. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2,000 mg/kg species (rat). Static acute toxicity: time LC50 96H1.47 mg/l species (golden orfe). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit). Mutagenicity: negative.

P 91-491

Manufacturer. Bdeoukian Research, Inc.

Chemical. (S) 1-Pentene-3-ol, 1-(2,6,6-trimethyl-1-cyclohexene)-1-yl-, acetate.

Use/Production. (S) Fragrance component. Prod. range: Confidential.

P 91-492

Manufacturer. Bedoukian Research, Inc.

Chemical. (G) Asymmetric alky ketone.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 91-493

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polyurethane thermoplastic resin.

Use/Production. (S) Extrusion and injection molding of static articles. Prod. range: Confidential.

P 91-494

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polyurethane thermoplastic resin.

Use/Production. (S) Extrusion and injection molding of static articles. Prod. range: Confidential.

P 91-495

Manufacturer. E.I Du Pont De Nemours & Co.

Chemical. (S) 3,3',4,4'-Biphenyltetracarboxylic acid.

Use/Production. (S) Intermediate.
Prod. range: Confidential.

Toxicity Data. Static acute toxicity: time LC50 96H581 mg/l species (fathead minnow). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 91-496

Importer. Enimont America, Inc.

Chemical. (G) Poly-peridynyl siloxane.

Use/Import. (S) UV light stabilizer in plastics. Import range: 30,000-200,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 691 mg/kg-1 species (rat). Acute dermal toxicity: LD50 1964 mg/kg-1 species (rabbit). Skin irritation: slight species (rabbit). Mutagenicity: negative. Static acute toxicity: time LC50 96H1.17 ppm species (rainbow trout).

P 91-497

Importer. Dow Corning Corporation.

Chemical. (G) Poly(organo)siliane.

Use/Import. (G) Plastics additive.
Import range: Confidential.

P 91-498

Manufacturer. Dow Corning Corporation.

Chemical. (G) Amino-functional polyorganosiloxane.

Use/Production. (G) Surface treatment agent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Static acute toxicity: time LC50 48H1.4 ppm species (daphnia magna). Skin irritation: strong species (rabbit). Mutagenicity: negative.

P 91-499

Manufacturer. Confidential.

Chemical. (G) Alkyl amino phosphoric acid resin.

Use/Production. (G) Additive in a dispersive used coating. Prod. range: 1,500-2,500 kg/yr.

P 91-500

Importer. Confidential.

Chemical. (G) Alkoxylated urethane acrylate.

Use/Import. (S) Adhesive in metal industry. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 91-501

Manufacturer. Confidential.

Chemical. (G) Benzamide, substituted, N,N-dialkyl.

Use/Production. (G) Hydrocarbon fuel and lubricating oil additive. Prod. range: Confidential.

P 91-502

Manufacturer. Confidential.

Chemical. (G) Urethane acrylate.

Use/Production. (G) Coatings, inks. Prod. range: Confidential.

P 91-504

Manufacturer. R.T. Vanderbilt Company, Inc.

Chemical. (G) 2,5-Dimercapto-1,3,4-thiadiazole reaction product.

Use/Production. (S) Two-cycle oil additive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Mutagenicity: negative.

P 91-505

Manufacturer. American Biltrite Inc.

Chemical. (G) Urethane acrylate oligomer.

Use/Production. (G) Photocurable coating for wood, glass, and plastic. Prod. range: Confidential.

P 91-508

Importer. Confidential.

Chemical. (G) Phosphoric acid derivative.

Use/Import. (G) Antifoaming additive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 91-510

Manufacturer. Henkel Corporation, Emery Group.

Chemical. (G) C6-C18 monobasic acids ND C4-C15 dibasic acids esterified with propylene glycol.

Use/Production. (S) Plasticizer for vinyl chloride resin. Prod. range: 450,000-900,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat).

P 91-511

Importer. Charkit Chemical Corporation.

Chemical. (G) Stilbazolium-*pendant* poly(vinyl alcohol).

Use/Import. (S) Light sensitive substance for use in printing plate applications. Import range: 500-5,000 kg/yr.

Toxicity Data. Static acute toxicity: time LC50 48H > 500 ppm species (small fish).

P 91-512

Manufacturer. Confidential.

Chemical. (G) Monosubstituted benzylic isocyanate, urethane with hydroxyalkyl substituted heterocycle.

Use/Production. (G) Modifier for latex. Prod. range: Confidential.

P 91-513

Manufacturer. Rheox, Inc.

Chemical. (G) Aliphatic bis-alkylamide resin.

Use/Production. (G) Additive for nonaqueous sealants, caulks, adhesives. Prod. range: Confidential.

P 91-514

Manufacturer. Confidential.

Chemical. (G) Poly(alkylepoxy) carboxylate.

Use/Production. (G) Open dispersive use. Prod. range: Confidential.

P 91-515

Manufacturer. Confidential.

Chemical. (G) Alkylepoxy carboxylate.

Use/Production. (G) Monomer intermediate for polymer production. Prod. range: Confidential.

P 91-516

Manufacturer. Confidential.

Chemical. (G) Substituted alkyl amide.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 91-517

Manufacturer. Confidential.

Chemical. (G) Alkyl amino acid.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 91-518

Manufacturer. Confidential.

Chemical. (G) Substituted alkyl amide.

Use/Production. (G) Component consumer products. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 6.5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 ml/kg species (rabbit). Eye irritation: none species (rabbit). Mutagenicity: negative. Skin

irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

P 91-519

Importer. Confidential.

Chemical. (G) Diazourethane.

Use/Import. (G) Film forming compound. Import range: Confidential.

P 91-520

Importer. Confidential.

Chemical. (G) Diazourethane polymer.

Use/Import. (G) Film forming compound. Import range: Confidential.

P 91-521

Importer. Confidential.

Chemical. (G) Substituted poly(acrylic acid).

Use/Import. (G) Surface finishing agent. Import range: Confidential.

P 91-522

Importer. Confidential.

Chemical. (S) Benzoic acid, 5-azido-2-((4-methoxyphenyl)) amine.

Use/Import. (G) Coating additive. Import range: Confidential.

P 91-523

Manufacturer. E.I. Du Pont De Nemours & Co.

Chemical. (G) Heterocyclic sulfate. *Use/Production.* (G) Photographic stabilizer. Prod. range: Confidential.

P 91-524

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 91-525

Manufacturer. Confidential.

Chemical. (G) Organotin catalyst.

Use/Production. (G) Polyurethane coatings. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3710 mg/kg species (rat). Acute dermal toxicity: LD50 2,000 mg/kg species (rabbit). Eye irritation: strong species (rabbit). Skin irritation: strong species (rabbit).

P 91-526

Manufacturer. Confidential.

Chemical. (G) Organotin catalyst.

Use/Production. (G) Polyurethane coatings. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3710 mg/kg species (rat). Acute dermal toxicity: LD50 2,000 mg/kg species (rabbit). Eye irritation: strong species (rabbit). Skin irritation: strong species (rabbit).

P 91-527

Manufacturer. Confidential.

Chemical. (G) Organotin catalyst.

Use/Production. (G) Polyurethane coatings. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3710 mg/kg species (rat). Acute dermal toxicity: LD50 2,000 mg/kg species (rabbit). Eye irritation: strong species (rabbit). Skin irritation: strong species (rabbit).

P 91-528

Importer. Shin-Etsu Silicones of America, Inc.

Chemical. (G) Organopolysiloxane.
Use/Import. (S) Ingredient for plastic or coating agent. Import range: 1,200-3,000 kg/yr.

P 91-529

Importer. Shin-Etsu Silicones Of America, Inc.

Chemical. (G) Organopolysiloxane.
Use/Import. (S) Ingredient for plastic or coating agent. Import range: 1,200-3,000 kg/yr.

P 91-530

Manufacturer. Dow Corning Corporation.

Chemical. (G) Oganoinc acrylate.
Use/Production. (G) Film forming polymer. Prod. range: Confidential.

P 91-531

Manufacturer. Confidential.

Chemical. (G) Fluorinated polyurethane.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-532

Manufacturer. Confidential.

Chemical. (G) Nitrosated aromatic amine derivative.

Use/Production. (G) Monomer process stabilizer. Prod. range: Confidential.

P 91-533

Importer. Hoechst Celanese Corporation.

Chemical. (G) Perfluoropolyether.
Use/Import. (G) Contained use. Import range: Confidential.

P 91-534

Importer. Hoechst Celanese Corporation.

Chemical. (G) Perfluoropolyether.
Use/Import. (G) Contained use. Import range: Confidential.

P 91-535

Importer. Confidential.

Chemical. (G) Polyaromatic resin.
Use/Import. (G) Manufacture of articles for the aerospace industry. Import range: Confidential.

P 91-536

Manufacturer. M-I Drilling Fluids Company.

Chemical. (G) A Lubricant filled melamine sponge.

Use/Production. (S) Drilling fluid additive. Prod. range: Confidential.

P 91-537

Manufacturer. E.I. Du Pont De Nemours & Company, Inc.

Chemical. (G) Ethylene interpolmer.
Use/Production. (G) General industrial use. Prod. range: Confidential.

P 91-538

Manufacturer. E.I. De Pont De Nemours & Company, Inc.

Chemical. (G) Ethylene interpolmer.
Use/Production. (G) General industrial use. Prod. range: Confidential.

P 91-539

Manufacturer. E.I. Du Pont De Nemours & Company, Inc.

Chemical. (G) Ethylene interpolmer.
Use/Production. (G) General industrial use. Prod. range: Confidential.

P 91-540

Manufacturer. E. I. Du Pont De Nemours & Company, Inc.

Chemical. (G) Ethylene interpolmer.
Use/Production. (G) General industrial use. Prod. range: Confidential.

P 91-541

Manufacturer. Confidential.

Chemical. (G) Organotin catalyst.
Use/Production. (G) Polyurethane foam catalyst. Prod. range: Confidential.

P 91-542

Importer. Protan, Inc.

Chemical. (G) Chitosa, substituted salt.

Use/Import. (G) Coating agent absorbent. Import range: Confidential.

P 91-543

Importer. Protan, Inc.

Chemical. (G) Chitosa, substituted salt.

Use/Import. (G) Coating agent absorbent. Import range: Confidential.

P 91-544

Importer. Protan, Inc.

Chemical. (G) Chitosa, substituted salt.

Use/Import. (G) Coating agent absorbent. Import range: Confidential.

P 91-545

Importer. Protan, Inc.

Chemical. (G) Chitosa, substituted salt.

Use/Import. (G) Coating agent absorbent. Import range: Confidential.

P 91-546

Manufacturer. Protan, Inc.

Chemical. (G) Chitosa, substituted salt.

Use/Production. (G) Coating agent absorbent. Prod. range: Confidential.

P 91-547

Manufacturer. Hercules Incorporated.

Chemical. (S) 1,1'-oxybisbenzene, reaction product with 2,4-trimethylpentene.

Use/Production. (G) Plasticizer. Prod. range: Confidential.

P 91-549

Manufacturer. Confidential.

Chemical. (G) Blocked polyurethane prepolymer.

Use/Production. (S) Adhesion promoter for use in a polyurethane coating. Prod. range: Confidential.

P 91-550

Manufacturer. Confidential.

Chemical. (G) Reaction product of substituted anilines, sodium carbonate, aniline, and sulfur.

Use/Production. (S) Site-limited intermediate for use in manufacture of sulfur dye. Prod. range: Confidential.

Dated: March 12, 1991.

Gerry Brown,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-6368 Filed 3-15-91; 8:45 am]

BILLING CODE 6560-50-F

[FRL-3914-3; LAG 556000]**Final NPDES General Permit for Domestic Wastewater Discharges in the State of Louisiana**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Issuance of NPDES General Permit.

SUMMARY: The Director has determined to issue a final NPDES General Permit for privately owned and publicly owned sewage treatment facilities in the State of Louisiana with design flows of 25,000 gallons per day (gpd) (0.025 gpd) and greater, but less than 50,000 gpd (0.50 gpd) who treat domestic wastes. This General Permit establishes effluent limitations, prohibitions, and other conditions on discharges.

DATES: This permit is effective at 12.01 a.m. Central Standard Time on April 17, 1991.

ADDRESSES: Send notification required by this permit to Director Water Management Division (6W) U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Caldwell, U.S. Environmental

Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733.

SUPPLEMENTARY INFORMATION: EPA issues this general permit pursuant to section 402 of the Clean Water Act (CWA), 33 U.S.C. 142. It does not cover hospitals and shopping centers that have attendants doing business as dry cleaning and photo processing. It does not apply to facilities that are specifically listed in the Louisiana Water Quality Management Plan with limits other than those in the general permit.

The limitations are based on the Louisiana Water Quality Management Plan's Statewide Sanitary Effluent Limitations Policy. The public comment period on the proposed permit ended on December 14, 1990. The Louisiana Department of Environmental Quality and EPA Headquarters submitted comments on the proposed permit. EPA Region 6 has considered all comments received. As a result of the comments there are some revisions to the final permit. Those revisions are discussed in the response to comments that follow. Annual reporting is on a date as directed by the Enforcement Branch at the time of processing the Notice of Intent to be covered under the general permit. In the following response EPA has departed from the literal words of the comments for clarity and to accommodate a consolidated response to multiple comments on the same issues.

Issue No. 1. Louisiana Department of Environmental Quality (LDEQ) request a modification to item c on page 2 part II of the permit to read: Coverage will not be extended to facilities which are listed in the Louisiana Water Quality Management Plan with limits other than what the general permit requires.

Response No. 1. Item c on page 2 part II of the permit has been changed to read: Coverage will not be extended to facilities which are listed in the Water Quality Management Plan with limits other than what the general permit requires.

Issue No. 2. The LDEQ request that we allow this permit to cover facilities with anticipated flows instead of design flows.

Response No. 2. 40 CFR 122.45 states in part that permit limits, standards, or prohibitions shall be calculated based on design flow.

Issue No. 3. Headquarters and LDEQ recommend inclusion of permit controls for potential toxicity when chlorine is the chosen disinfection process.

Response No. 3. Due to the de minimis discharge covered by this general permit and the lack of critical flow and ambient

stream data, EPA Region 6 will not include a numerical chlorine limit in this general permit. If, however, subsequent data suggests chlorine toxicity, then individual permits will be issued on a case by case basis.

Issue No. 4. EPA Headquarters suggest we delete coverage of hospitals contending they are categorical industries whose waste streams routinely contain medical waste, film processing waste and radio active materials in permits designed to only cover domestic sewage.

Response No. 4. As requested, hospitals have been deleted from coverage under provisions of the general permit.

Issue No. 5. Headquarters suggest we define shopping centers that are covered under the general permit as having no dry cleaning or photo processing activities, or alternatively delete shopping centers from coverage under provisions of this permit.

Response No. 5. As requested shopping centers with dry cleaning establishments and photo processing facilities are not covered under provisions of this general permit.

Issue No. 6. Headquarters recommends clarification of the note in section A, page 3, part I of the permit, concerning commercial food operations. The present wording may present a loop hole for those operations which have commercial food operations as a portion of their activity but are not the principal operation (e.g., a snack bar and grill in an office building).

Response No. 6. The application of oil and grease effluent limits has been clarified to exclude small snack bars or grills located within office buildings from requirements of commercial food service operations. The waste from these small businesses is amendable to biological treatment. There is also a provision on page 3 of the permit that prohibits floating solids and visible foam.

Issue No. 7. Headquarters request that we include a provision stating that the region has reviewed the activity to be covered under the permit and certifies that the activity is consistent with the Coastal Zone Management Act.

Response No. 7. The EPA Region 6 has reviewed the activity to be covered under this general permit and has determined the permit is consistent with the Coastal Zone Management Act. EPA Region 6 certifies that the activity is consistent with the Coastal Zone Management Act and request concurrence from the State of Louisiana.

Issue No. 8. Headquarters would like for us to clarify whether a 3 month exceedence of flow will require

application for an individual NPDES permit or a plan to address how the flow beyond design capacity will be handled.

Response No. 8. As stated in section C, page 3, part II of the permit, the Director reserves the right to revoke the authorization to discharge in accordance with this general permit and require such person to apply for and obtain an individual permit.

Issue No. 9. Headquarters would like to see language in the permit conditions to assure that the discharge limits will not adversely affect in-stream water quality and for those few instances where permit conditions will significantly degrade dissolved oxygen concentrations the applicant should be directed to apply for an individual permit.

Response No. 9. See response No. 8.

Issue No. 10. Headquarters states there are provisions for installation of sampling ports in the discharge lines during construction, but the permit remains silent as to how existing facilities must ensure that adequate and representative effluent samples can be obtained from existing facilities.

Response No. 10. Paragraph 2, section B, part I states that samples shall be taken at the discharge point from the final treatment unit and prior to mixing with the receiving waters. However, the permit language has been modified to require proper sampling locations either at the time of construction or thereafter.

WASTEWATER DISCHARGE PERMIT

[General Permit Number LAG556000]

Pursuant to the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et. seq; the "Act"), and Federal Regulations promulgated under the authority of the Act, a National Pollutant Discharge Elimination System (NPDES) General Permit is issued authorizing sewage treatment facilities to discharge, in the State of Louisiana, who apply, and meet the requirements of part II.A., herein and who discharge to waters of the United States, treated domestic wastewater totaling 25,000 gallons per day (gpd) (0.025 mgd) and greater, but less than 50,000 gpd (0.050 MGD), in accordance with effluent limitations, monitoring requirements, and other conditions set forth in parts I, II and III herein.

This permit shall become effective on April 17, 1991.

This permit and the authorization to discharge shall expire at midnight on April 17, 1996.

Signed this 1st day of March 1991.
Kenton Kirkpatrick,
Acting Director, Water Management Division
 (6W).

Part I

Section A. Effluent Limitations

During the period beginning on the

effective date of this General Permit and lasting through the date of expiration, domestic wastewater dischargers with facilities having a design flow of 25,000 gpd (0.025 mgd), or greater, but less than 50,000 gpd (0.050 mgd) and who comply with part II.A., herein, may be covered under this General Permit unless they

are specifically listed in the water quality management plan with limitations other than what the general permit requires. Covered facilities are authorized to discharge treated domestic wastewater from their treatment plant in accordance with the following limitations and monitoring requirements.

EFFLUENT CHARACTERISTICS

| | Discharge limits | | Monitoring requirements | |
|--------------------------------|------------------|------------|-------------------------|-------------|
| | 30-day avg. | Daily max. | Measurement frequency | Sample type |
| Flow-gpd | Monitor | 49,999 | 1/Week ¹ | Measure. |
| BOD ₅ | 20 mg/l | 30 mg/l | 1/Month ¹ | Grab. |
| TSS | 20 mg/l | 30 mg/l | 1/Month ¹ | Grab. |
| Oil and Grease ² | | 15 mg/l | 1/Month ¹ | Grab. |
| Fecal Coliform Colonies/100 ml | 200/100 ml | 400/100 ml | 1/Month ¹ | Grab. |

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored Once/Month¹ by grab sample. There shall be no discharge of floating solids or visible foam, other than trace amounts.

¹ If the value of this effluent characteristic exceeds the daily maximum limit in any sample, then the monitoring frequency shall increase to one/week. This increased frequency shall continue until a sample demonstrates a value less than or equal to the daily maximum limitation.

² Required only for commercial food service operations. Does not apply to snack bars or grills in office buildings.

Section B. Monitoring and Reporting Requirements

1. All sampling and testing shall be done in accordance with 40 CFR part 136, "Guidelines Establishing Test Procedures for the analysis of Pollutants Under the Clean Water Act." unless other test procedures have been specified in this permit or approved by the Director.

2. Samples shall be taken at the discharge from the final treatment unit and prior to mixing with the receiving waters. Provisions must be made during the installation of the treatment unit or thereafter for the taking of a proper sample. This permit has a minimum requirement that samples must be taken and analyzed once per month. However, the permittee shall at all times operate and maintain the facilities used to achieve compliance with the conditions of this permit, including additional sampling and testing as necessary to assure that the permit limitations are not exceeded at any time.

3. Monitoring results obtained during the previous 3 months shall be summarized and reported on a Discharge Monitoring Report (DMR) Form (EPA No. 3320-1). The highest monthly average taken during the reporting period shall be reported as the 30-day average. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum. Signed and certified copies of these and other reports required herein, shall be submitted to the EPA and to the State Agency listed in section D. 7. c., part III of this permit.

Section C. Sewage Sludge Requirements

1. The permittee shall use only those sewage sludge disposal practices that comply with the federal regulations for landfills and solid waste disposal established at 40 CFR part 257.

2. The permittee shall handle and dispose of sewage sludge in accordance with all applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present.

3. If an applicable "acceptable management practice" or numerical limitation for pollutants in sewage sludge promulgated at section 405(d)(2) of the Clean Water Act is more stringent than the sludge pollutant limit or acceptable management practice in this permit, or controls a pollutant not listed in this permit, this permit may be modified or revoked and reissued to conform to the requirements promulgated at section 405(d)(2).

a. Sewage Sludge Management Practices. (1) Sewage sludge shall not be spread when soil is saturated, frozen or covered with ice, or during rain or when precipitation is imminent.

(2) Disposal of sewage sludge shall not cause a discharge to waters of the United States or cause non-point source pollution of waters of the United States.

(3) Disposal of sewage sludge shall not cause any underground drinking water source to exceed the limitations at 40 CFR 257, appendix I.

(4) Disposal of sewage sludge shall not cause or contribute to the taking of any endangered or threatened species of plant, fish or wildlife.

(5) Disposal of sewage sludge shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species.

(6) Disposal of sewage sludge in a floodplain shall not restrict the flow of the base flood, reduce the temporary storage capacity of the floodplain, or result in a washout of solid waste, so as to pose a hazard to human life, wildlife or land and water uses.

b. The permittee shall give 120 days prior notice to the Director of any change planned in the sewage sludge disposal practice.

Section D. Schedule or Compliance

Compliance by the permittee with the effluent limitations and monitoring requirements specified for discharges shall be achieved upon the effective date of this General Permit.

Part II Other Requirements

Section A. Applicability

1. Facilities operating a source or conducting an activity that results in a domestic sewage discharge as described below and who make proper application are covered under this General Permit and will become permittees authorized to discharge under this permit. Any discharger covered by an individual permit may request that the individual permit be canceled and apply for coverage under this General Permit, if the permitted source or activity is eligible for coverage by this General Permit. As long as the source or activity is covered by an individual permit, the

conditions of the individual permit will remain in effect.

2. Any discharger desiring coverage under this General Permit shall submit (1) a notice of intent, (2) an EPA Form 3510-1 General Information, and (3) an EPA Form 3510-2E Application For Facilities Which Do Not Discharge Process Wastewater. Dischargers requesting coverage will be notified in writing of the authorization to discharge under conditions of this permit.

3. Dischargers requesting coverage under this General Permit shall notify the Director of any prior application for an individual permit or any issued individual permit and shall identify any NPDES permit number which was assigned to the application or the individual permit.

4. Facilities covered by this General Permit are those with an average design flow of less than 25,000 gpd (0.025 mgd) and discharge only domestic sewage. Privately owned facilities covered include, but are not limited to multi-family residences, trailer parks, restaurants, entertainment centers, office buildings and shopping centers without dry cleaning facilities and/or photo processing centers. Publicly owned facilities include City, Town, Borough, County, District, Association, or other public body created by or under State law and having jurisdiction over disposal of sewage, or an Indian Tribe, or Indian Tribal Organization, or a designated and approved management agency under section 208 of the CWA.

5. This General Permit shall not apply to:

(a) Facilities having multiple discharges, not all of which are domestic sewage, even though the total domestic discharge is less than 25,000 gallons per day. Contaminated or possibly contaminated stormwater runoff is one such non-domestic discharge; or

(b) Facilities built in conflict with the State of Louisiana Sanitary Code.

(c) Facilities specifically listed in the Louisiana Water Quality Management Plan with limitations other than what the general permit requires.

(6) The Director reserves the right to require any discharger to apply for an individual permit and to operate the facility in accordance with that individual permit.

Section B. Facility Changes

The authorization to discharge in accordance with this General Permit is terminated upon the increase in the average discharge rate to 25,000 gallons per day or greater for three consecutive months. At the time of such an increase in the discharge rate from a treatment

facility covered by this General Permit, the permittee shall submit to the EPA a wastewater discharge permit application described in part II.A., herein.

Section C. Termination of Authorization to Discharge

1. This Director reserves the right to revoke the authorization to discharge in accordance with this General Permit as it applies and/or require such person to apply for and obtain an individual permit if:

(a) The covered source or activity is a significant contributor to pollution or creates other environmental problems;

(b) The permittee is not in compliance with the terms or conditions of this General Permit; or

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point sources;

(d) Effluent limitation guidelines are promulgated for point sources covered by this General Permit;

(e) A water quality management plan containing requirements applicable to such point source is approved; or

(f) The point sources covered by this permit no longer:

1. Involve the same or substantially similar types of operations or operations;
2. Discharge the same types of waste;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring; and

5. In the opinion of the Director, are more appropriately controlled under an individual NPDES permit than under this General Permit.

2. The Director may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

3. When an individual NPDES permit may be requested:

(a) Any operator authorized to discharge by this permit may request to be excluded from coverage of this General Permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Director.

(b) When an individual NPDES permit is issued to an operator otherwise subject to this General Permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this General Permit solely because it already has an individual permit may request that its individual permit be revoked and that it be covered by this General Permit. Upon revocation of the individual permit, this General Permit shall apply to that source.

Part III Standard Conditions for NPDES Permits

Section A. General Conditions

1. *Duty to Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, or for denial of a permit renewal application.

2. *Toxic Pollutants.* a. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. *Expiring Permit.* Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR part 122.6 and any subsequent amendments. Conditions in this General Permit continue in force only if proper application has been made prior to the expiration date.

4. *Permit Flexibility.* This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. *Property Rights.* This permit does not convey any property rights of any sort, or any exclusive privilege.

6. *Duty to Provide Information.* The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and

reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

7. Criminal and Civil Liability. Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. 1001.

8. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

9. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

10. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Section B. Proper Operation and Maintenance

1. Need to Halt or Reduce not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

2. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely

affecting human health or the environment.

3. Proper Operation and Maintenance.

a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. Bypass of Treatment Facilities. **a.** Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of parts III. B.4.b. and 4.c.

b. Notice. Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it shall record this information if possible at least ten days before the date of the bypass.

c. Unanticipated bypass. The permittee shall keep records of an unanticipated bypass as required in part III.D.7.

d. Prohibition of bypass. (1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(2) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(3) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.

(4) The Director may allow an anticipated bypass after considering its adverse effects, if the Director

determines that it will meet the three conditions listed at part III.B.4.

5. Upset Conditions. **a.** Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of part III.B.5.b. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee recorded notice of the upset as required by part III.D.7; and,

(4) The permittee complied with any remedial measures required by part III.B.2.

6. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

7. Removed Substances. Solids, sewage sludge, filter backwash, or other pollutants removed in the course of treatment or wastewater control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

Section C. Monitoring and Records

1. Inspection and Entry. The permittee shall allow an authorization representative of EPA upon the presentation of credentials and other documents as may be required by the law to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purpose of assuring permit

compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Representative Sampling. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data for a period of at least 3 years from the date of the sample, measurement, or recorded event. This period may be extended by request of the Director at any time.

4. Record Contents. Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. Name(s) of the individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. Name(s) of the individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

Section D. Record Requirements

1. Planned Changes. The permittee shall maintain records of any planned physical alterations or additions to the permitted facility. Records are required when:

(a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR part 122.29(b); or,

(b) The alteration or addition could significantly change the nature or increase the quality of pollutants discharged.

2. Anticipated Noncompliance. The permittee shall maintain records of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. Discharge Monitoring Reports and Other Reports. Monitoring results must be recorded on Discharge Monitoring Report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form.

5. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation of the data recorded on the Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

6. Averaging of Measurements. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

7. Recording Noncompliance. a. The permittee shall record any noncompliance which may endanger health or the environment. All information shall be recorded at the time the permittee becomes aware of the circumstances. A written submission shall be provided upon request by the Enforcement Branch. The report shall contain the following information:

- (1) A description of the noncompliance and its cause;
- (2) The period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,
- (3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

b. The following shall be included as information which must be recorded:

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Any upset which exceeds any effluent limitation in the permit.

c. Monitoring results must be reported on Discharge Monitoring report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form. The permittee shall submit the original DMR signed and certified as required by part III.D to the EPA at the address below. Duplicate copies of DMR's and all other reports shall be submitted to EPA and the State Agency at the following addresses:

Environmental Protection Agency,
Water Management Division, Director
(6W-E), 1445 Ross Avenue, Dallas,
Texas 75202-2733.

Assistant Secretary for Water, Water
Pollution Control Division, Louisiana
Department of Environmental Quality,
P.O. Box 44091, Baton Rouge,
Louisiana 70804-4091.

8. Other Noncompliance. The permittee shall record all instances of noncompliance not recorded under parts III.D.4 and D.7 and part I.B.

9. Other Information. Where the permittee becomes aware that it failed to record any relevant facts or information, it shall promptly record such facts or information in accordance with part III.D.7.

10. Signatory Requirements. All reports or information submitted to EPA shall be signed and certified.

a. All documents and reports shall be signed as follows:

(1) For a corporation—by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: A president, secretary, treasurer, or vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision making functions for the corporation.

(2) For a partnership or sole proprietorship—by a general partner or the proprietor, respectively.

b. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described above;
- (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,
- (3) The written authorization is submitted to the Director.

c. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

11. Availability of Reports. Except for applications, effluent data, permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential

by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

Section E. Penalties for Violations of Permit Conditions

1. *Criminal.* a. *Negligent Violations.* The Act provides that any person who negligently violates permit conditions implementing section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b. *Knowing Violations.* The Act provides that any person who knowingly violates permit conditions implementing section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

c. *Knowing Endangerment.* The Act provides that any person who knowingly violates permit conditions implementing section 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not less than \$250,000, or by imprisonment for not more than 15 years, or both.

d. *False Statement.* The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both, (See section 309.c.4. of the Clean Water Act)

2. *Civil Penalties.* The Act provides that any person who violates a permit condition implementing section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$25,000 per day for each violation.

3. *Administrative Penalties.* The Act provides that any person who violates a permit condition implementing section 301, 302, 306, 307, 308, 318, or 405 of the

Act is subject to an administrative penalty, as follows:

a. *Class I Penalty.* Not to exceed \$10,000 per violation nor shall the maximum amount exceed \$25,000.

b. *Class II Penalty.* Not to exceed \$10,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$125,000.

Section F. Definitions

All definitions contained in section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

2. *Daily Maximum*, discharge limitation means the highest allowable "daily discharge" during the calendar month.

3. *Grab sample* means an individual sample collected in less than 15 minutes.

4. *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

5. *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

6. *mg/l* shall mean milligrams per liter or parts per million (ppm).

7. *30-day average*, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.

Appendix A.—Priority Pollutant List

Acenaphthene

Acrolein
Acrylonitrile
Benzene
Benzidine
Carbon tetrachloride (tetrachloromethane)
Chlorobenzene
1,2,4-trichlorobenzene
Hexachlorobenzene
1,2-dichloroethane
1,1,1-trichloroethane
Hexachloroethane
1,1-dichloroethane
1,1,2-trichloroethane
1,1,2,2-tetrachloroethane
Chloroethane
Bis(2-chloroethyl) ether
2-chloroethyl vinyl ether (mixed)
2-chloronaphthalene
2,4,6-trichlorophenol
Parachlorometacresol
Chloroform (trichloromethane)
2-chlorophenol
1,2-dichlorobenzene
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3-dichlorobenzene
1,1-dichloroethylene
2,4-dichlorophenol
1,2-dichloropropane
1,2-dichloropropylene (1,3-dichloropropene)
2,4-dimethylphenol
2,4-dinitrotoluene
2,6-dinitrotoluene
1,2-diphenylhydrazine
Ethylbenzene
Fluoranthene
4-chlorophenyl phenyl ether
4-bromophenyl phenyl ether
Bis(2-chloroisopropyl) ether
Bis(2-chloroethoxy) methane
Methylene chloride (dichloromethane)
Methyl chloride (dichloromethane)
Methyl bromide (bromomethane)
N-nitrosodiphenylamine
Bromoform (tribromomethane)
Dichlorobromomethane
Chlorodibromomethane
Hexachlorobutadiene
Hexachlorocyclopentadiene
Isophorone
Naphthalene
Nitrobenzene
2-nitrophenol
4-nitrophenol
2,4-dinitrophenol
4,6-dinitro-o-cresol
N-nitrosodimethylamine
N-nitrosodi-n-propylamine
Pentachlorophenol
Phenol
Bis(2-ethylhexyl)phthalate
Butyl benzyl phthalate
Di-n-butyl phthalate
Di-n-actyl phthalate
Diethyl Phthalate
Dimethyl phthalate 1,2-benzanthracene(benzo(a)anthracene)
Benzo(a)pyrene (3,4-benzo-pyrene)
3,4-Benzofluoranthene (benzo(b)fluoranthene)
11,12-benzofluoranthene (benzo(b)fluoranthene)
Chrysene
Acenaphthylene
Anthracene
1,12-benzoperylene(benzo(ghi)perylene)

Fluorene
Phenanthrene
1,2,5,6-
dibenzanthracene(dibenzo(h)anthracene)
Indeno(1,2,3-cd)pyrene(2,3-o-phenylene
pyrene) Pyrene Tetrachloroethylene
Toluene
Trichloroethylene
Vinyl chloride (chloroethylene) Aldrin
2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)
Dieldrin
Chlordane (tech. mixture and metabolites)
4,4-DDT
4,4-DDE (p,p-DDX)
4,4-DDD (p,p-TDE)
Alpha-endosulfan
Beta-endosulfan
Endosulfan sulfate
Endrin
Endrin aldehyde
Heptachlor
Heptachlor epoxide (BHC-hexachloro-
cyclohexane)
Alpha-BHC
Beta-BHC
Gamma-BHC (lindane)
Delta-BHC (PCB-poly-chlorinated bi-phenyls)
PCB-1242 (Arochlor 1242)
PCB-1254 (Arochlor 1254)
PCB-1221 (Arochlor 1221)
PCB-1232 (Arochlor 1232)
PCB-1248 (Arochlor 1248)
PCB-1260 (Arochlor 1260)
PCB-1016 (Arochlor 1016)
Toxaphene
Antimony
Arsenic
Asbestos
Beryllium
Cadmium
Chromium
Copper
Cyanide, Total
Lead
Mercury
Nickel
Selenium
Silver
Thallium
Zinc

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[FRL-3914-4]

**Final NPDES General Permit for
Domestic Wastewater Discharges in
the State of Louisiana: LAG551000**

AGENCY: U.S. Environmental Protection
Agency.

ACTION: Issuance of NPDES general
permit.

SUMMARY: The Director has determined
to issue a final NPDES General Permit
for privately owned and publicly owned
sewage treatment facilities in the State
of Louisiana with design flows of 2,500
gallons per day (gpd) (0.0025 gpd) and
greater, but less than 25,000 gpd (0.025
gpd) who treat domestic wastes. This
General Permit establishes effluent

limitations, prohibitions, and other
conditions on discharges.

DATES: This permit is effective at 12:01
a.m. Central Standard Time on April 17,
1991.

ADDRESSES: Send notification required
by this permit to Director Water
Management Division (6W) U.S.
Environmental Protection Agency,
Region 6, 1445 Ross Avenue, Dallas
Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT:
Ms. Ellen Caldwell, U.S. Environmental
Protection Agency, 1445 Ross Avenue,
Dallas, Texas 75202-2733.

SUPPLEMENTARY INFORMATION: EPA
issues this general permit pursuant to
section 402 of the Clean Water Act
(CWA), 33 U.S.C. 1342. It does not cover
hospitals and shopping centers that
have attendants doing business as dry
cleaning and photo processing. It does
not apply to facilities that are
specifically listed in the Louisiana
Water Quality Management Plan with
limits other than those in the general
permit. The limitations are based on the
Louisiana Water Quality Management
Plan's Statewide Sanitary Effluent
Limitations Policy.

The public comment period for the
proposed permit ended on December 14,
1990. The Louisiana Department of
Environmental Quality and EPA
Headquarters submitted comments on
the proposed permit. EPA Region 6 has
considered all comments received. As a
result of the comments there are some
revisions to the final permit. Those
revisions are discussed in the response
to comments that follow. Annual
reporting is on a date as directed by the
Enforcement Branch at time of
processing the Notice of Intent to be
covered under the general permit. In the
following response EPA has departed
from the literal words of the comments
for clarity and to accommodate a
consolidated response to multiple
comments on the same issues.

Issue No. 1 Louisiana Department of
Environmental Quality (LDEQ) request a
modification to item c on page 2 part II
of the permit to read: Coverage will not
be extended to facilities which are listed
in the Louisiana Water Quality
Management Plan with limits other than
what the general permit requires.

Response No. 1 Item c on page 2 part
II of the permit has been changed to
read: Coverage will not be extended to
facilities which are listed in the Water
Quality Management Plan with limits
other than what the general permit
requires.

Issue No. 2 The LDEQ request that
we allow this permit to cover facilities

with anticipated flows instead of design
flows.

Response No. 2 40 CFR 122.45 states
in part that permit limits, standards, or
prohibitions shall be calculated based
on design flow.

Issue No. 3 Headquarters and LDEQ
recommend inclusion of permit controls
for potential toxicity when chlorine is
the chosen disinfection process.

Response No. 3 Due to the de
minimis discharge covered by this
general permit and the lack of critical
flow and ambient stream data, EPA
Region 6 will not include a numerical
chlorine limit in this general permit. If,
however, subsequent data suggests
chlorine toxicity, then individual permits
will be issued on a case by case basis.

Issue No. 4 EPA Headquarters
suggest we delete coverage of hospitals
contending they are categorical
industries whose waste streams
routinely contain medical waste, film
processing waste and radio active
materials in permits designed to only
cover domestic sewage.

Response No. 4 As requested,
hospitals have been deleted from
coverage under provisions of the general
permit.

Issue No. 5 Headquarters suggest we
define shopping centers that are covered
under the general permit as having no
dry cleaning or photo processing
activities, or alternatively delete
shopping centers from coverage under
provisions of this permit.

Response No. 5 As requested
shopping centers with dry cleaning
establishments and photo processing
facilities are not covered under
provisions of this general permit.

Issue No. 6 Headquarters
recommends clarification of the note in
section A, Page 3, part I of the permit,
concerning commercial food operations.
The present wording may present a loop
hole for those operations which have
commercial food operations as a portion
of their activity but are not the principal
operation (e.g., a snack bar and grill in
an office building).

Response No. 6 The application of
oil and grease effluent limits has been
clarified to exclude small snack bars or
grills located within office buildings
from commercial food service
operations. The waste from these small
businesses is amendable to biological
treatment. There is also a provision on
page 3 of the permit that prohibits
floating solids and visible foam.

Issue No. 7 Headquarters request
that we include a provision stating that
the region has reviewed the activity to
be covered under the permit and

certifies that the activity is consistent with the Coastal Zone Management Act.

Response No. 7 The EPA Region 6 has reviewed the activity to be covered under this general permit and has determined the permit is consistent with the Coastal Zone Management Act. EPA Region 6 certifies that the activity is consistent with the Coastal Zone Management Act.

Issue No. 8 Headquarters would like for us to clarify whether a 3 month exceedence of flow will require application for an individual NPDES permit or a plan to address how the flow beyond design capacity will be handled.

Response No. 8 As stated in section C, Page 3, part II of the permit, the Director reserves the right to revoke the authorization to discharge in accordance with this general permit and require such person to apply for and obtain an individual permit.

Issue No. 9 Headquarters would like to see language in the permit conditions to assure that the discharge limits will not adversely affect in-stream water quality and for those few instances where permit conditions will significantly degrade dissolved oxygen concentrations the applicant should be directed to apply for an individual permit.

Response No. 9 See response No. 8.

Issue No. 10 Headquarters states there are provisions for installation of sampling ports in the discharge lines during construction, but the permit remains silent as to how existing facilities must ensure that adequate and representative effluent samples can be obtained from existing facilities.

Response No. 10 Paragraph 2, section B, part I states that samples shall be taken at the discharge point from the final treatment unit and prior to mixing with the receiving waters. The permit language has been modified to require proper sampling locations either at the time of construction or thereafter.

Wastewater Discharge Permit

[General Permit Number LAG551000]

Pursuant to the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251, *et seq*; the "Act") and Federal Regulations promulgated under the authority of the Act, a National Pollutant Discharge Elimination System (NPDES) General Permit is issued authorizing certain publicly owned and privately owned sewage treatment facilities, in the State of Louisiana, who apply, and meet the requirements of part II.A., herein and who discharge to waters of the United

States, treated domestic wastewater totaling 2,500 gallons per day (gpd) (0.0025 MGD) and greater, but less than 25,000 gpd (0.025 MGD), in accordance with effluent limitations, monitoring requirements, and other conditions set forth in parts I, II and III herein.

This permit shall become effective on April 17, 1991.

This permit and the authorization to discharge shall expire at midnight on April 17, 1996.

Signed this 1st day of March 1991.

Myron O. Knudson,
Director, Water Management Division (6W).

Part I

Section A. Effluent Limitations

During the period beginning on the effective date of this General Permit and lasting through the date of expiration, all domestic wastewater discharges with facilities having a design flow of 2,500 gpd (0.0025 MGD), or greater, but less than 25,000 gpd (0.025 MGD) and who comply with part II.A., herein, may be covered under this General Permit and may be authorized to discharge treated domestic wastewater in accordance with the following limitations and monitoring requirements.

EFFLUENT CHARACTERISTICS, DISCHARGE LIMITS, AND MONITORING REQUIREMENTS

| | | 30-day average daily maximum | Measurement frequency | Sample type |
|-------------------------------------|-----------------|------------------------------|------------------------------|-------------|
| Flow-gpd..... | Monitor..... | 24999..... | 1/month ¹ | Estimate. |
| BOD5..... | 30 mg/l..... | 45 mg/l..... | 1/Quarter ¹ | Grab. |
| TSS ^a | 30 mg/l..... | 45 mg/l..... | 1/Quarter ¹ | Grab. |
| Oil and Grease ^a | 10 mg/l..... | 15 mg/l..... | 1/Quarter ¹ | Grab. |
| Fecal Coliform Colonies/100 ml..... | 200/100 ml..... | 400/100 ml..... | 1/Quarter ¹ | Grab. |

¹ If the value of this effluent characteristic exceeds the daily maximum limit in any sample, then the monitoring frequency shall increase to one/month. This increased frequency shall continue until a sample demonstrates a value less than or equal to the daily maximum limitations.

² Required only for commercial food service operations. Does not apply to small snack bars or grills in office buildings.

³ Facilities using stabilization ponds as the primary treatment process are limited to 90 mg/l for the 30-day avg. and 135 mg/l for the daily maximum TSS.

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored Once/Quarter¹ by grab sample. There shall be no discharge of toxic materials or priority pollutants (See appendix A).

There shall be no discharge of floating solids or visible foam, other than trace amounts.

Section B. Monitoring and Reporting Requirements

1. All sampling and testing shall be done in accordance with 40 CFR part 136, "Guidelines Establishing Test

¹ If the value of this effluent characteristic exceeds the daily maximum limit in any sample, then the monitoring frequency shall increase to one/month. This increased frequency shall continue until a sample demonstrates a value less than or equal to the daily maximum limitation.

Procedures for the Analysis of Pollutants under the Clean Water Act." Unless other test procedures have been specified in this permit or approved by the Director.

2. Samples shall be taken at the discharge from the final treatment unit and prior to mixing with the receiving waters. Provisions shall be made either during the construction of the treatment unit or thereafter for the taking of a proper sample. This permit has a minimum requirement that samples must be taken and analyzed once per quarter. However, the permittee shall at all times operate and maintain the facilities used to achieve compliance with the conditions of this permit, including additional sampling and testing as necessary to assure that the permit

limitations are not exceeded at any time.

3. Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report (DMR) Form (EPA No. 3320-1). The highest monthly average taken during the reporting period shall be reported as the 30-day average. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration. Signed and certified copies of these and other reports required herein shall be submitted annually to the EPA and to the State Agency listed in section D. 7. c., Part III of this permit, in accordance with written instructions from EPA.

Section C. Sewage Sludge Requirements

1. The permittee shall use only those sewage sludge disposal practices that comply with the federal regulations for landfills and solid waste disposal established at 40 CFR part 257.

2. The permittee shall handle and dispose of sewage sludge in accordance with all applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present.

3. If an applicable "acceptable management practice" or numerical limitation for pollutants in sewage sludge promulgated at section 405(d)(2) of the Clean Water Act is more stringent than the sludge pollutant limit or acceptable management practice in this permit, or controls a pollutant not listed in this permit, this permit may be modified or revoked and reissued to conform to the requirements promulgated at section 405(d)(2).

4. Sewage Sludge Management Practices

(a) Disposal of sewage sludge shall not cause a discharge to waters of the United States or cause non-point source pollution of waters of the United States.

(b) Disposal of sewage sludge shall not cause any underground drinking water source to exceed the limitations at 40 CFR part 257, appendix I.

(c) Disposal of sewage sludge shall not cause or contribute to the taking of any endangered or threatened species of plant, fish or wildlife.

(d) Disposal of sewage sludge shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species.

(e) Disposal of sewage sludge in a floodplain shall not restrict the flow of the base flood, reduce the temporary storage capacity of the floodplain, or result in a washout of solid waste, so as to pose a hazard to human life, wildlife or land and water uses.

5. The permittee shall give 120 days prior notice to the Director of any change planned in the sewage sludge disposal practice.

Section D. Schedule of Compliance

Compliance by the permittee with the effluent limitations and monitoring requirements specified for discharges shall be achieved upon date the permittee becomes covered by this general permit.

*Part II—Other Requirements**Section A. Applicability*

1. Facilities operating a source or conducting an activity that results in a domestic sewage discharge as described

below and who make proper application are covered under this General Permit and will become permittees authorized to discharge under this permit. Any discharger covered by an individual permit may request that the individual permit be canceled and apply for coverage under this General Permit, if the permitted source or activity is eligible for coverage by this General Permit. As long as the source or activity is covered by an individual permit, the conditions of the individual permit will remain in effect.

2. Any discharger desiring coverage under this General Permit shall submit (1) a notice of intent, (2) an EPA Form 3510-1 General Information, and (3) an EPA Form 3510-2E Application For Facilities Which Do Not Discharge Process Wastewater. Dischargers requesting coverage will be notified in writing of the authorization to discharge under conditions of this permit.

3. Dischargers requesting coverage under this General Permit shall notify the Director of any prior application for an individual permit or any issued individual permit and shall identify any NPDES permit number which was assigned to the application or the individual permit.

4. Facilities covered by this General Permit are those with an average design flow of less than 25,000 gpd (0.025 mgd) and discharge only domestic sewage. Privately owned facilities covered include, but are not limited to multi-family residences, trailer parks, restaurants, entertainment centers, office buildings and shopping centers without dry cleaning facilities and/or photo processing centers. Publicly owned facilities include City, Town, Borough, County, District, Association, or other public body created by or under State law and having jurisdiction over disposal of sewage, or an Indian Tribe, or Indian Tribe Organization, or a designated and approved management agency under section 208 of the CWA.

5. This General Permit shall not apply to:

(a) Facilities having multiple discharges, not all of which are domestic sewage, enough though the total domestic discharge is less than 25,000 gallons per day. Contaminated or possibly contaminated stormwater runoff is one such non-domestic discharge; or

(b) Facilities built in conflict with the State of Louisiana Sanitary Code.

(c) Facilities specifically listed in the Louisiana Water Quality Management Plan with limitations other than what the general permit requires.

(6) The Director reserves the right to require any discharger to apply for an

individual permit and to operate the facility in accordance with that individual permit.

Section B. Facility Changes

The authorization to discharge in accordance with the General Permit is terminated upon the increase in the average discharge rate to 25,000 gallons per day or greater for three consecutive months. At the time of such an increase in the discharge rate from a treatment facility covered by this General Permit, the permittee shall submit to the EPA a wastewater discharge permit application described in part II.A herein.

Section C. Termination of Authorization to Discharge

1. This Director reserves the right to revoke the authorization to discharge in accordance with this General Permit as it applies and/or require such person to apply for and obtain an individual permit if:

(a) The covered source or activity is a significant contributor to pollution or creates other environmental problems;

(b) The permittee is not in compliance with the terms or conditions of this General Permit; or

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point sources;

(d) Effluent limitation guidelines are promulgated for point sources covered by this General Permit;

(e) A water quality management plan containing requirements applicable to such point source is approved; or

(f) The point sources covered by this permit no longer:

1. Involve the same or substantially similar types of operation or operations;

2. Discharge the same types of waste;

3. Require the same effluent limitations or operating conditions;

4. Require the same or similar monitoring; and

5. In the opinion of the Director, are more appropriately controlled under an individual NPDES permit than under this General Permit.

2. The Director may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

3. When an individual NPDES permit may be requested:

(a) Any operator authorized to discharge by this permit may request to be excluded from coverage of this General Permit by applying for an

individual permit. The operator shall submit an application together with the reasons supporting the request to the Director.

(b) When an individual NPDES permit is issued to an operator otherwise subject to this General Permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this General Permit solely because it already has an individual permit may request that its individual permit be revoked and that it be covered by this General Permit. Upon revocation of the individual permit, this General Permit shall apply to that source.

Part III—Standard Conditions For NPDES Permits

Section A. General Conditions

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, or for denial of a permit renewal application.

2. Toxic Pollutants

a. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. Expiring Permit

Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR 122.6 and any subsequent amendments. Conditions in this General Permit continue in force only if proper application has been made prior to the expiration date.

4. Permit Flexibility

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit

modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

6. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

7. Criminal and Civil Liability

Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. 1001.

8. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

9. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

10. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other

circumstances, and the remainder of this permit, shall not be affected thereby.

Section B. Proper Operation and Maintenance

1. Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

2. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance

a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. Bypass of Treatment Facilities

a. *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of parts III.B.4.b. and 4.c.

b. *Notice. Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall record this

information if possible at least ten days before the date of the bypass.

c. *Unanticipated bypass.* The permittee shall keep records of an unanticipated bypass as required in Part III.D.7.

d. *Prohibition of bypass.* (1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(2) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(3) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.

(4) The Director may allow an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed at part III.B.4.

5. Upset Conditions

a. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of part III.B.5.b. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee recorded notice of the upset as required by part III.D.7; and

(4) The permittee complied with any remedial measures required by part III.B.2.

6. Burden of Proof

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

7. Removed Substances

Solids, sewage sludge, filter backwash, or other pollutants removed in the course of treatment or wastewater control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

Section C. Monitoring and Records

1. Inspection and Entry

The permittee shall allow an authorized representative of EPA upon the presentation of credentials and other documents as may be required by the law to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data for a period of at least 3 years from the date of the sample, measurement, or recorded event. This period may be extended by request of the Director at any time.

4. Record Contents

Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. Name(s) of the individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. Name(s) of the individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

Section D. Record Requirements

1. Planned Changes

The permittee shall maintain records of any planned physical alterations or additions to the permitted facility. Records are required when:

(a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged.

2. Anticipated Noncompliance

The permittee shall maintain records of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. Discharge Monitoring Reports and Other Reports

Monitoring results must be recorded on Discharge Monitoring Report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form.

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation of the data recorded on the Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

7. Recording Noncompliance

a. The permittee shall record any noncompliance which may endanger health or the environment. All information shall be recorded at the time the permittee becomes aware of the

circumstances. A written submission shall be provided upon request by the Enforcement Branch. The report shall contain the following information:

(1) A description of the noncompliance and its cause;

(2) The period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,

(3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

b. The following shall be included as information which must be recorded:

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit.

(2) Any upset which exceeds any effluent limitation in the permit.

c. Monitoring results must be reported on Discharge Monitoring report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form. The permittee shall submit the original DMR signed and certified as required by Part III.D. to the EPA at the address below. Duplicate copies of DMR's and all other reports shall be submitted to EPA and the State Agency at the following addresses:

Environmental Protection Agency,
Water Management Division, Director
(6W-E), 1445 Ross Avenue, Dallas,
Texas 75202-2733.

Assistant Secretary for Water, Water
Pollution Control Division, Louisiana
Department of Environmental Quality,
P.O. Box 44091, Baton Rouge,
Louisiana 70804-4091.

8. Other Noncompliance

The permittee shall record all instances of noncompliance not recorded under parts III.D.4 and D.7 and part I.B.

9. Other Information

Where the permittee becomes aware that it failed to record any relevant facts or information, it shall promptly record such facts or information in accordance with part III.D.7.

10. Signatory Requirements

All reports or information submitted to EPA shall be signed and certified.

a. All documents and reports shall be signed as follows:

(1) For a corporation—by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: A president, secretary, treasurer, or vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision making functions for the corporation.

(2) For a partnership or sole proprietorship—by a general partner or the proprietor, respectively.

b. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and, (3) The written authorization is submitted to the Director.

c. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

11. Availability of Reports

Except for applications, effluent data, permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

Section E. Penalties for Violations of Permit Conditions

1. Criminal

a. *Negligent violations.* The Act provides that any person who negligently violates permit conditions implementing section 301, 302, 306, 307, 308, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b. *Knowing Violations.* The Act provides that any person who

knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

c. *Knowing Endangerment.* The Act provides that any person who knowingly violates permit conditions implementing sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

d. *False Statements.* The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See section 309.c.4 of the Clean Water Act.)

2. Civil Penalties

The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$25,000 per day for each violation.

3. Administrative Penalties

The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. *Class I Penalty.* Not to exceed \$10,000 per violation nor shall the maximum amount exceed \$25,000.

b. *Class II Penalty.* Not to exceed \$10,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$125,000.

Section F. Definitions

All definitions contained in section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in

this permit, additional definitions of words or phrases used in this permit are as follows:

1. *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

2. *Daily Maximum discharge* limitation means the highest allowable "daily discharge" during the calendar month.

3. *Grab sample* means an individual sample collected in less than 15 minutes.

4. *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

5. *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

6. *mg/l* shall mean milligrams per liter or parts per million (ppm).

7. *30-day average*, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.

Appendix A.—Priority Pollutant List

Acenaphthene
Acrolein
Acrylonitrile
Benzene
Benzidine
Carbon tetrachloride (tetrachloromethane)
Chlorobenzene
1,2,4-trichlorobenzene
Hexachlorobenzene
1,2-dichloroethane
1,1,1-trichloroethane
Hexachloroethane
1,1-dichloroethane
1,1,2-trichloroethane
1,1,2,2-tetrachloroethane
Chloroethane
Bis(2-chloroethyl) ether
2-chloroethyl vinyl ether (mixed)
2-chloronaphthalene
2,4,6-trichlorophenol

Parachlorometacresol
Chloroform (trichloromethane)
2-chlorophenol
1,2-dichlorobenzene
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3-dichlorobenzene
1,1-dichloroethylene
2,4-dichlorophenol
1,2-dichloropropane
1,2-dichloropropylene (1,3-dichloropropene)
2,4-dimethylphenol
2,4-dinitrotoluene
2,6-dinitrotoluene
1,2-diphenylhydrazine
Ethylbenzene
Fluoranthene
4-chlorophenyl phenyl ether
4-bromophenyl phenyl ether
Bis(2-chloroisopropyl) ether
Bis(2-chloroethoxy) methane
Methylene chloride (dichloromethane)
Methyl chloride (dichloromethane)
Methyl bromide (bromomethane)
N-nitrosodiphenylamine
Bromoform (tribromomethane)
Dichlorobromomethane
Chlorodibromomethane
Hexachlorobutadiene
Hexachlorocyclopentadiene
Isophorone
Naphthalene
Nitrobenzene
2-nitrophenol
4-nitrophenol
2,4-dinitrophenol
4,6-dinitro-o-cresol
N-nitrosodimethylamine
N-nitrosodi-n-propylamine
Pentachlorophenol
Phenol
Bis(2-ethylhexyl)phthalate
Butyl benzyl phthalate
Di-n-butyl phthalate
Di-n-octyl phthalate
Diethyl Phthalate
Dimethyl phthalate 1,2-benzanthracene (benzo(a)anthracene)
Benzo(a)pyrene (3,4-benzo-pyrene)
3,4-Benzofluoranthene (benzo(b)fluoranthene)
11,12-benzofluoranthene (benzo(b)fluoranthene)
Chrysene
Acenaphthylene
Anthracene
1,12-benzoperylene (benzo(ghi)perylene)
Fluorene
Phenanthrene
1,2,5,6-dibenzanthracene (dibenzo(h)anthracene)
Indeno(1,2,3-cd)pyrene(2,3 o-phenylene pyrene) Pyrene Tetrachloroethylene
Toluene
Trichloroethylene
Vinyl chloride (chloroethylene) Aldrin
2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)
Dieldrin
Chlordane (tech. mixture and metabolites)
4,4-DDT
4,4-DDE (p,p-DDX)
4,4-DDD (p,p-TDE)
Alpha-endosulfan
Beta-endosulfan
Endosulfan sulfate

Endrin
Endrin aldehyde
Heptachlor
Heptachlor epoxide (BHC- hexachloro-cyclohexane)
Alpha-BHC
Beta-BHC
Gamma-BHC (lindane)
Delta-BHC (PCB-poly-chlorinated bi-phenyls)
PCB-1242 (Arochlor 1242)
PCB-1254 (Arochlor 1254)
PCB-1221 (Arochlor 1221)
PCB-1232 (Arochlor 1232)
PCB-1248 (Arochlor 1248)
PCB-1260 (Arochlor 1260)
PCB-1016 (Arochlor 1016)
Toxaphene
Antimony
Arsenic
Asbestos
Beryllium
Cadmium
Chromium
Copper
Cyanide, Total
Lead
Mercury
Nickel
Selenium
Silver
Thallium
Zinc

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FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Reporting Standard Concerning the Return of a Loan With a Partial Charge-Off to Accrual Status

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice of request for comment.

SUMMARY: Under the auspices of the Task Forces on Supervision and Reports of the Federal Financial Institutions Examination Council (FFIEC), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (FRB), and the Office of Thrift Supervision (OTS) (referred to as the "agencies"), propose to establish criteria under which a federally supervised bank or savings association ("depository institution"), for purposes of the Reports of Condition and Income (Call Reports) or Thrift Financial Reports (TFR), may return nonaccrual loans with partial charge-offs of principal to accrual status without first recovering the partial charge-off or becoming fully current in accordance with the contractual loan terms. These proposed Call Report and TFR instructions and reporting requirements would implement one

aspect of the agencies' joint program to clarify certain regulatory policies.

DATES: Comments requested must be received by May 2, 1991.

ADDRESSES: Comments should be directed to: Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, 1776 G Street, NW., suite 850B, Washington, DC 20006. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: At the OCC: Zane D. Blackburn, Chief Accountant, or William J. Lewis, Accounting Fellow (202) 447-0471. At the FDIC: Robert F. Storch, Chief, or Doris L. Marsh, Examination Specialist, Accounting Section, Division of Supervision (202) 898-8914. At the FRB: Rhoger H. Pugh, Manger (202) 728-5883, or Gerald A. Edwards, Project Manager (202) 452-2741, Policy Development Section, Division of Banking Supervision and Regulation. At the OTS: David H. Martens, Chief Accountant (202) 906-5646 or Robert J. Fishman, Program Manager (202) 906-5672.

SUPPLEMENTARY INFORMATION:

I. Introduction

National banks and federally insured state-chartered member banks and nonmember banks are required to file quarterly Call Reports with the OCC, FRB, and FDIC, respectively. Savings associations are required to file Thrift Financial Reports with the OTS.

The agencies have been reviewing requests for clarification of the regulatory guidelines regarding nonaccrual status of loans. Currently, the bank Call Report instructions provide certain requirements for a nonaccrual loan to be returned to accrual status. These instructions state that a nonaccrual asset may be returned to an accrual when: (1) *None of its principal and interest is due and unpaid* or (2) when it otherwise becomes well secured and in the process of collection (emphasis added). These instructions also require that repayment of principal and interest must be expected before an asset can be restored to accrual status. For savings associations, the TFR instructions state that, in order for interest to be accrued on a loan, its collection must be probable.

In applying these requirements, amounts due and expected have been based on the loan's *contractual* amounts. Some have questioned whether the remaining book balance (after any partial loan charge-offs) should be the basis for applying these requirements in certain circumstances. If a suitable charge-off is taken and the

expectation of full collection of the remaining book value of the loan at a market rate of interest is supportable, it may be appropriate to return the loan to an accrual status under certain circumstances.

II. Proposed Call Report Glossary Entry and TFR Instructions for Partially Charged-Off Loans Accruing Interest at a Market Rate

General Instruction

The reporting treatment discussed herein is contemplated principally for collateral dependent loans that have been placed on nonaccrual status. However, other loans for which the primary source of repayment is a dedicated and readily determinable stream of cash flows may qualify for this reporting treatment. Application of this reporting treatment to any such loans would be subject to supervisory review during the examination process.

Qualifying Criteria

Qualifying nonaccrual loans that have demonstrated substantial, but less than required, contractual repayment performance may be returned to accrual status when all of the following criteria are met. These loans are hereafter referred to as "Partially charged-off loans accruing interest at a market rate."

(1) The borrower continues to retain control of any associated collateral and the loan is not an insubstance foreclosure.

(2) The loan has been reduced through a charge-off to a balance that will have the characteristics of a good loan paying interest at a market rate (i.e., that rate which the depository institution would require for a new loan of the same type with comparable terms and credit risk). Indicators of a good loan would include prudent loan-to-value ratios and adequate cash flow support similar to that which would be required by the depository institution for a new loan under its normal underwriting standards. Consequently, the book value of the loan following the charge-off will be less than the present value of the total expected cash flows, in order to provide cash flow support consistent with prudent underwriting standards. For purposes of the determination of adequate cash flow support, cash receipts must not include any interest reserves or other amounts funded indirectly or directly by the depository institution. Furthermore, designation of the loan as "other assets especially mentioned" by banking or thrift regulators for technical reasons not reflecting the assessment of the

adequacy of the cash flow support would not preclude this reporting treatment, provided the loan otherwise meets all four of these criteria.

(3) The amount and timing of collections must be reasonably estimable. Further, the amount and timing of anticipated cash flow must be sufficient to cover the expected lower level of debt service (i.e., the reduced principal and interest payments) on the remaining recorded loan balance. The estimated cash flow must be probable and demonstrate that the borrower will be able to fully repay the reduced loan balance plus interest over a reasonable period of time. Probability should be based on long term lease contracts, third party commitments or similar arrangements. If commitments from third parties are relied upon, the ability of those parties to perform must be thoroughly assessed and documented.

(4) The borrower must have performed for a sustained period at the level necessary to service the reduced principal and interest payments on the remaining loan balance. A sustained period is that which, under the specific circumstances, is sufficient to reasonably demonstrate the ability of the borrower to continue required performance. In making this determination, existing sustained performance which began prior to the date of the adoption of this reporting treatment should be considered.

Only once during the life of a loan relationship may a nonaccrual loan be reduced through a charge-off to a balance that may be returned to accrual status. If there is a further charge-off due to renewed doubt as to collectibility on a nonaccrual loan that has been returned to accrual status by means of this reporting treatment, the accrual of interest should be discontinued, unless and until the loan subsequently meets the existing reporting requirements for return to accrual status based on its contractual terms.

Income Accrual

For a loan which has been returned to accrual status through this reporting treatment, interest income must be accrued at the market interest rate used in the second criterion, above. Cash receipts in excess of that required to amortize the recorded loan balance at this market rate may occur. Interest income in excess of that accrued at the market rate on the reduced loan balance cannot be recognized until all prior charge-offs have been recovered. Recoveries of partial charge-offs can only be recorded when realized as cash is received.

Continuing Performance

Once a loan has been returned to accrual status under this reporting treatment, the required evaluation of cash flows and payment performance should be updated at each report date to determine whether the loan continues to meet the criteria for remaining on accrual status.

If a loan fails to perform in accordance with the criteria for adoption of this reporting treatment, but no further charge-off is necessary, the loan must again be placed on nonaccrual status. Also, when a loan meets the existing Call Report or TFR nonaccrual criteria applied to the remaining book balance and related debt service, the loan must be placed on nonaccrual status. In either event, the return of a partially charged-off loan to nonaccrual status may be indicative of an insubstance foreclosure.

A loan that has been placed on accrual status through this reporting treatment but that later has been placed on nonaccrual status (other than following a further charge-off due to renewed doubt as to collectibility) may be restored to accrual status only when the loan meets the existing reporting requirements for restoration to accrual status based on the lower required debt service. Additionally, the loan must again meet the four criteria previously set forth. In this case the loan would be returned to the category of "Partially Charged-Off Loans Accruing Interest at a Market Rate." Of course, any loan that meets the existing reporting requirements for restoration to accrual status, based on its contractual terms may be returned to accrual status. In this case the loan would not be included in the category of "Partially Charged-Off Loans Accruing Interest at a Market Rate."

Other Matters

This reporting treatment will require depository institutions to charge a loan down to a point where the remaining principal balance will be repaid at a market rate of interest and the reduced loan balance will have collateral and cash flow support equivalent to that expected under prudent underwriting standards. Thus, the adoption of this reporting treatment may require greater charges against the allowance for loan and lease losses (ALLL) than were contemplated for the loans in question when the ALLL was last evaluated. Depository institutions must ensure that the adoption of this reporting treatment does not diminish the adequacy of the ALLL.

Appraisals of collateral values should be performed in accordance with existing regulatory standards.

Information on loans to which this reporting treatment has been applied is to be reported in the Call Report or TFR.

III. Proposed Information To Be Collected in the Call Report and TFR

The following information is to be collected in regulatory report forms regarding partially charged-off loans accruing interest at a market rate:

(Dollar amounts in thousands)

1. Partially charged-off loans accruing interest at a market rate:
 - a. Book value at the end of the prior quarter of partially charged-off loans accruing interest at a market rate. \$ _____
 - b. Book value of partially charged-off loans returned to accrual status at a market rate since the end of the prior quarter. _____
 - b.1. Charge-offs taken in order to return the partially charged-off loans reported in item 1.b. to accrual status at a market rate. \$ _____
 - c. LESS: payments applied during the quarter to reduce the recorded balance of partially charged-off loans accruing interest at a market rate. _____
 - d. LESS: all other changes and adjustments since the end of the prior quarter, net, to partially charged-off loans accruing interest at a market rate. _____
 - e. Book value at the end of the current quarter of partially charged-off loans accruing interest at a market rate. \$ _____
 - e.1. Book value of loans in 1.e. that are not collateral dependent. \$ _____
2. Interest income accrued on loans that have been partially charged-off and are accruing interest at a market rate. \$ _____
3. Recoveries on charged-off portions of loans that have been returned to accrual status at a market rate. \$ _____

IV. Instructions for Preparation of Disclosure for "Partially Charged-Off Loans Accruing Interest at a Market Rate"

General Instructions

Information on loans meeting the criteria set forth in the bank Call Report glossary entry and TFR instructions for "Partially Charged-off Loans Accruing Interest at a Market Rate" must be reported in the bank Call Report and TFR. The remaining book balance of any such loan should be included in item 1 until:

(a) It is redesignated as a nonaccrual loan under existing reporting requirements (that determination being based, however, on the recorded and not the contractual balance due),

(b) It becomes classified substandard or worse by examiners or the institution's internal credit review process,

(c) The level of cash flows falls below that level required when the loan was determined as qualifying for this reporting treatment,

(d) The loan to value ratio falls below a prudent level,

(e) Additional charge-offs are taken,

(f) It becomes current based on its contractual terms, or,

(g) It is repaid or otherwise satisfied (including through formal restructuring, foreclosure or insubstance foreclosure).

Item Instructions

Item No., Caption and Instructions

1 *Partially charged-off loans accruing interest at a market rate.*
Report in subitems 1.a through 1.e, below, a reconciliation of the changes since the prior quarter in the book balance of loans restored to accrual status after being partially charged-off in accordance with the Call Report glossary entry or TFR instruction "Partially Charged-off Loans Accruing Interest at a Market Rate." For loans returned to accrual status in the current quarter, also report in subitem 1.b.1 the amount of charge-offs taken in order to qualify the remaining balance of the loan for return to accrual status in accordance with this reporting treatment. (See Call Report glossary entry or TFR instruction entitled "Partially Charged-off Loans Accruing Interest at a Market Rate.")

1(a) *Book value at the end of the prior quarter of partially charged-off loans accruing interest at a market rate.*
Report the book balance of all loans (net of unearned income and prior charge-offs) at the end of the prior quarter which were accruing interest in

accordance with the Call Report glossary entry or TFR instruction "Partially Charged-off Loans Accruing Interest at a Market Rate."

1(b) *Book value of partially charged-off loans returned to accrual status at a market rate since the end of the prior quarter.* Report the book balance of loans returned to accrual status since the end of the prior quarter in accordance with the Call Report glossary entry or TFR instruction "Partially Charged-off Loans Accruing Interest at a Market Rate." The book balance reported in this item shall be as of the date the loan was returned to accrual status after deduction of any charge-off necessary to qualify the loan for this reporting treatment. Payments of principal applied subsequent to that date, but prior to the quarter end, should be reported in item 1.c.

1(b.1) *Charge-offs taken in order to return the partially charged-off loans reported in item 1.b to accrual status at a market rate.* Report the amount of charge-offs taken in order to return the loans reported in subitem 1.b to accrual status in accordance with the Call Report glossary entry or TFR instruction "Partially Charged-off Loans Accruing Interest at a Market Rate." Include any charge-offs taken to return the loans in item 1.b to accrual status under this reporting treatment, regardless of whether such charge-offs were taken in this quarter or prior quarters.

1(c) *LESS: payments applied during the quarter to reduce the recorded balance of partially charged-off loans accruing interest at a market rate.* Report in this item the amount of payments received during the quarter that were applied to reduce the book balance of loans which were reported in this category at the prior quarter end and which were continuously included in such category through this quarter end. For loans which were returned to accrual status in accordance with this reporting treatment during the quarter, report payments applied during the quarter after the date of return to this category or initial adoption of this reporting treatment, respectively. For loans which were removed from this accrual category during the quarter, report only payments applied to the book balance while the loan was in this category during the quarter. This would also hold true for any loans which were both removed from and returned to this category during the quarter. Payments, as that term is used, are not limited to expected periodic payments, but would also include payment in full of the obligation (other than through Formal

restructuring, foreclosure or insubstance foreclosure).

1(d) *LESS: all other changes and adjustments since the end of the prior quarter, net, to partially charged-off loans accruing interest at a market rate.* Report the net effect of all other changes and adjustments, including additional advances, if any; loans removed from this category because they were placed back in nonaccrual status or because they became current in accordance with their contractual terms or due to formal restructuring, foreclosure, including insubstance foreclosure; or loans returned to this category from nonaccrual status after payment deficiencies had been cured (see Call Report glossary or TFR instruction entitled "Partially Charged-off Loans Accruing Interest at a Market Rate" for details). In rare circumstances, the amount reported in the aggregate of loans subject to this reporting treatment. In such instances the amount reported in this item could represent a net increase in this item should be enclosed with parentheses to indicate that it must be added to, rather than subtracted from, the total of items 1.a, 1.b and 1.c in order to arrive at the current quarter end balance for all loans for which interest income is being accrued after partial charge-off in accordance with the Call Report glossary entry or TFR instruction "Partially Charged-off Loans Accruing Interest at a Market Rate", as reported in item 1.e below.

1(e) *Book value at the end of the current quarter of partially charged-off loans accruing interest at a market rate.* Report in this item the book balance as of the report date of all partially charge-off loans which were accruing interest in accordance with the Call Report glossary entry or TFR instruction "Partially Charged-off Loans Accruing Interest at a Market Rate." The item must equal the sum of items 1.a through 1.d.

1(e.1) *Book value of loans in 1.e. that are not collateral dependent.* Report the book value as of the report date of loans included in item 1.e which do not rely on cash flow support from collateral for repayment but rather are supported by other dedicated and readily determinable cash flow streams, in accordance with Call Report glossary entry or TFR instruction "Partially Charged-off Loans Accruing Interest at a Market Rate."

2 *Interest income accrued on loans that have been partially charged-off and are accruing interest at a market rate.* Report the amount of interest income accrued in the current period on all loans for which interest income was

being accrued after a partial charge-off in accordance with Call Report glossary entry or TFR instruction "Partially Charged-off Loans Accruing Interest at a Market Rate."

3 *Recoveries on charged-off portions of loans that have been returned to accrual status at a market rate.* Report in this item all recoveries during the current quarter on the charged-off portion of any loan during that portion of the current quarter that interest was accrued on the loan in accordance with the Call Report glossary entry or TFR instruction "Partially Charged-off Loans Accruing Interest at a Market Rate."

V. Issues for Comment

Background

Introduction

The agencies have assessed the requirements for this reporting treatment in light of existing supervisory policy and regulatory reporting requirements. The agencies believe that it may be an acceptable practice under those policies and requirements.

This belief is based on the assumption that the proposed reporting treatment can lead to more conservative regulatory reporting. The loss recognized for those loans to which the proposed method is applied may be greater than would otherwise result under current acceptable methods. This situation arises because under current regulatory and accounting standards, depository institutions are required to charge off all elements of known loss. This typically results in all or a portion of the remaining balance of the loan subject to partial charge-off being adversely classified. On the other hand, the proposed treatment would require depository institutions to charge a loan down to an amount that is characteristic of a good loan, i.e., no portion of the remaining loan balance would warrant adverse classification.

The reporting treatment may also provide financial institutions with more flexibility in dealing with problem loans. Finally, the adoption of this proposed method may enhance the quality of information provided to existing and potential depositors, borrowers and shareholders of depository institutions. However, before the agencies are able to issue a final instruction, there are several areas where public comment is sought.

The agencies strive, whenever possible, to maintain conformity between generally accepted accounting principles (GAAP) and regulatory reporting requirements. While the agencies believe that the proposed

reporting standard may be a step in the direction of improved regulatory reporting, there is not definitive evidence that it is in accordance with GAAP.

Additionally, it is uncertain whether the new method is "preferable" (as that term is used under GAAP) for all institutions.

Concurrent Studies

There has been considerable debate within the rulemaking bodies of the accounting profession on issues which the proposed reporting standard addresses. The Accounting Standards Executive Committee of the American Institute of Certified Public Accountants (AICPA) has been considering various issues related to the accrual of income. The Financial Accounting Standards Board (FASB) is also studying the recognition and measurement of financial instruments. The FASB also has separate projects assessing the questions of the impairment of loans and long-lived assets.

Accounting Changes

The agencies believe that the adoption of this reporting treatment may be a change in accounting principle. Accounting Principles Board Opinion No. 20, "Accounting Changes" (APB 20) states that a change in the method used in applying an accounting principle is a change in an accounting principle. There may be differing opinions as to whether implementation of the proposed reporting treatment is an accounting principle change.

In order for an entity to adopt a change in accounting principle, GAAP requires that the principle being implemented be preferable to the one currently being followed. The agencies recognize the obligation under APB 20, in making an accounting change, to justify this accounting method as a preferable method under GAAP and provide guidance as to its implementation. However, as a precondition to concluding that implementation of this proposal would be a change to a preferable accounting principle, it may be necessary to:

- (1) Expand the scope of this proposed reporting treatment to certain other loans or all loans, and/or,
- (2) Make the adoption of this treatment mandatory for all depository institutions or for all qualifying loans within an institution.

This request for comment seeks to determine whether the proposed reporting treatment can be deemed preferable or if a definitive conclusion can be reached

Insubstance Foreclosures

The first criterion for application of this reporting treatment requires that the loan not be an insubstance foreclosure. The agencies believe that the determination of whether a loan is an insubstance foreclosure should be made prior to any charge-offs planned to return the loan to accrual status under this reporting treatment. More specifically, charge-offs which represent the recognition of uncollectible amounts under the guidance of Statement of Financial Accounting Standards No. 5, "Accounting for Contingencies" (FAS 5) are relevant in making a determination of the existence of an insubstance foreclosure. However, the portion of a partial charge-off taken when applying this reporting treatment to a loan that is in excess of that required under FAS 5 (i.e., to recognize the time value of money and to provide a degree of excess cash flow support), should not impact the determination of whether a loan is an insubstance foreclosure. Responses regarding this issue will be important in assessing whether the accounting treatment can be practicably and consistently applied.

Applicability

Finally, the agencies seek to determine whether this reporting treatment should be required for all depository institutions, or whether it should or could be adopted at an institution's option. The agencies request comment on this issue as well as on whether the reporting treatment should be prescribed for all qualifying loans. Or, rather, should adoption be required for all troubled loans, for all nonaccrual loans or for all of some other category of loans held by a depository institution.

Responses regarding whether the application of this proposal should be at the option of individual depository institutions should provide sufficient reference to precedent or cite other bases in accounting practice or the accounting literature.

Considerations regarding selective application include:

- (1) For the assets affected, a more conservative accounting practice in comparison to the existing method may result.
- (2) For loans which do not have a dedicated and readily determinable stream of cash flows, the determination of value may be more difficult and inherently subjective.

Questions

Accordingly, to facilitate an understanding of this proposed reporting

treatment (which, in its proposed form, would not be required to be adopted by a depository institution and could be selectively applied to qualifying loans) relative to GAAP, the agencies request comment specifically on the following questions:

(1) Is the method permitted under this proposed reporting treatment an acceptable interpretation under existing GAAP? Specifically, commentators should consider addressing whether the proposed reporting treatment is consistent with the analogous literature:

(a) Under FAS 5 and the AICPA Industry Audit Guides, "Audits of Banks" and "Audits of Savings and Loan Associations", is it acceptable for an institution to utilize both discounted and undiscounted techniques to measure probable losses on loans? Is the use of both methods acceptable, particularly if the less conservative method is used for lower-quality loans that do not qualify for application of the proposed method?

(b) Is the use of a market discount rate an acceptable interpretation of the AICPA Savings and Loan Audit Guide which requires the reduction of proceeds at a rate equivalent to the cost of capital in determination of net realizable value? Can an institution use two discount rates for similar loans?

(c) Is the proposed method consistent with Statement of Financial Accounting Standards No. 15, "Accounting by Debtors and Creditors for Troubled Debt Restructurings" (FAS 15), in which the gain or loss on restructuring is measured on an undiscounted basis?

(d) Is the proposed method consistent with AICPA Practice Bulletin 5, which prohibits accrual of income on certain loans unless, among other things, the loan becomes current as to principal and interest payments?

(2) Should the proposed reporting treatment be limited only to collateral dependent loans? If not, are the proposed limitations set forth in this document (i.e., loans where the primary source of repayment is a dedicated and readily determinable stream of cash flows) sufficiently clear and appropriate, or are other criteria for applicability necessary? For example, should the proposed reporting treatment be required for a broader subset of loans or for other assets such as leases?

(3) Is it reasonable to believe that loans meeting the requirements for the proposed reporting treatment will not also meet the criteria requiring insubstance foreclosure accounting?

(4) Can existing GAAP be interpreted to permit selective or discretionary application of the proposed reporting treatment by a depository institution to

only certain of the loans within the defined scope? Further, would existing GAAP permit an institution to elect to adopt or forego this proposed reporting treatment entirely? Do the proposed bank Call Report and TFR items alleviate the concerns inherent in selective application, or is the collection of additional information in regulatory reports necessary to alleviate these concerns? If so, what additional information would be needed?

(5) Would the adoption of this proposed reporting treatment represent a change to a preferable accounting principle under APB 20? Does the discretionary application aspect preclude, or make more difficult or otherwise impact the determination of whether the change is preferable?

(6) If a loan to which this reporting treatment were applied subsequently became contractually current, should it be excluded from being reported in the bank Call Report and TFR items for partially charged-off loans returned to accrual status? If so, should it happen immediately, or after one year-end reporting, similar to the requirements for FAS 15 disclosure?

Dated: March 14, 1991.

Robert J. Lawrence,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 91-6489 Filed 3-15-91; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations; Trion Forwarding Co., Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 3027.

Name: Trion Forwarding Company, Inc.

Address: 16820 Lee Road, Humble, Texas 77338.

Date Revoked: January 16, 1991.

Reason: Surrendered license voluntarily.

License Number: 143.

Name: Taub, Hummel & Schnall, Inc.

Address: 135 Rockaway Turnpike, Suite 107, Lawrence, NY 11559.

Date Revoked: February 13, 1991.

Reason: Failed to furnish a valid surety bond.

License Number: 3359

Name: Del-Med Inc. dba DMCO Corp., D.M.I.C. International Div.

Address: 901 Hadley Road, South Plainfield, NJ 07080.

Date Revoked: February 21, 1991.

Reason: Surrendered license voluntarily.

License Number: 864.

Name: Amersped, Inc.

Address: 118 John Street, New York 10038.

Date Revoked: February 22, 1991.

Reason: Failed to furnish a valid surety bond.

License Number: 2646.

Name: Robert W. Cisco dba Robert W. Cisco Custom House Broker.

Address: 416 Common St., Suite 100, New Orleans 70130.

Date Revoked: February 28, 1991.

Reason: Surrendered license voluntarily.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 91-6346 Filed 3-15-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Central 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 April 8, 1991.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Central Bancshares, Inc.*, St. Paris, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The First Central National Bank of St. Paris, St. Paris, Ohio.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *FLB Investment Corporation*, Washington, DC; to become a bank holding company by acquiring 50 percent of the voting shares of First Liberty Bancorp, Inc., Washington, DC, and thereby indirectly acquire First Liberty National Bank, Washington, DC

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

1. *Chadwick Bancshares, Inc.*, Chadwick, Illinois; to acquire 100 percent of the voting shares of Preston Bancshares, Inc., Preston, Iowa, and thereby indirectly acquire Farmers Savings Bank, Preston, Iowa.

2. *Valley Bancshares, Inc.*, Mapleton, Iowa; to acquire 85 percent of the voting shares of Nisswa State Bank, Nisswa, Minnesota.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Arvest Bank Group, Inc.*, Bentonville, Arkansas; to acquire at least 80 percent of the voting shares of Village South National Bank, Tulsa, Oklahoma.

2. *Plato Bancshares, Inc.*, Plato, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Plato, Plato, Missouri.

Board of Governors of the Federal Reserve System, March 12, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-6320 Filed 3-15-91; 8:45 am]

BILLING CODE 6210-01-F

Fayette County Bancshares, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a

company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than April 8, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Fayette County Bancshares, Inc.*, Peachtree City, Georgia; to establish Fayette County Interim Savings & Loan Association, Peachtree City, Georgia, to acquire certain assets and liabilities of the Fayetteville, Georgia branch of Anchor Savings Bank, FSB, Hewlett, New York, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Brooke Holdings, Inc.*, Jewell, Kansas; to acquire Brooke Corporation, Concordia, Kansas, and thereby engage in the sale of general insurance pursuant to § 225.25(b)(8)(vi) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 12, 1991.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 91-6321 Filed 3-15-91; 8:45 am]

BILLING CODE 6210-01-F

Dr. Walter Nehr Korn, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 8, 1991.

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

1. *Dr. Walter Nehr Korn*, to acquire 38.6 percent of the voting shares of Chadwick Bancshares, Inc., Chadwick, Illinois, and thereby indirectly acquire Farmers State Bank of Chadwick and Mount Carroll, Mount Carroll, Illinois.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Steven Monroe Wilcox*, Grand Rapids, Minnesota, and *Craig C. Wilcox*, Grand Rapids, Minnesota; to acquire 41.7 percent of the voting shares of Wilcox Bancshares, Inc., Grand Rapids, Minnesota, and thereby indirectly acquire Grand Rapids State Bank, Grand Rapids, Minnesota.

Board of Governors of the Federal Reserve System, March 12, 1991.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 91-6322 Filed 3-15-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

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

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

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

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 021991 AND 030191

| Name of acquiring person, Name of acquired person, Name of acquired entity | PMN number | Date terminated |
|---|------------|-----------------|
| Hiroshi Takahama, Earl M. Crittenden, Silver Spring Citrus Cooperative | 91-0482 | 02/19/91 |
| Aisin Takaoka Co., Ltd., Internet Corporation, INTAT Precision, Inc. | 91-0530 | 02/19/91 |
| BCE Inc., Pacific Telesis Group, PacTel Business Systems, Inc. | 91-0550 | 02/19/91 |
| Exxon Corporation, Comalloy International Corporation, Comalloy International Corporation | 91-0570 | 02/19/91 |
| Nippon Oil Company, Limited, Philip F. Anschutz, The Anschutz Corporation | 91-0526 | 02/20/91 |
| Kelso Investments Associates IV, L.P., EnviroSource, Inc., Landstar System, Inc. | 91-0540 | 02/20/91 |
| CSX Corporation, PLECO, Inc., The Pittsburgh and Lake Erie Railroad Company | 91-0562 | 02/20/91 |

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 021991 AND 030191—Continued

| Name of acquiring person, Name of acquired person, Name of acquired entity | PMN number | Date terminated |
|--|------------|-----------------|
| Williams Holdings PLC, Yale and Valor PLC, Yale and Valor PLC.... | 91-0563 | 02/20/91 |
| Douglas H. Wolf, CILCORP Inc., CLM Inc.-IX..... | 91-0592 | 02/20/91 |
| Triad Healthcare, Nu-Med, Inc., Nu-Med Medical Buildings, Inc..... | 91-0565 | 02/21/91 |
| Warburg, Pincus Capital Company, L.P., Dataphaz, Inc., Dataphaz Business Systems, Inc..... | 91-0574 | 02/22/91 |
| Fiserv, Inc. Citicorp, Citicorp Information Resources, Inc..... | 91-0581 | 02/22/91 |
| Hubbell Incorporated, Hawker Siddeley Group Public Limited Company, Fasco Industries, Inc. Consumer Products Division..... | 91-0587 | 02/22/91 |
| Charles Schustermann, Mesa Limited Partnership, Mesa Operating Limited Partnership..... | 91-0589 | 02/22/91 |
| V. F. Corporation, H-T-X Industries, Inc., Health-tex Inc..... | 91-0599 | 02/25/91 |
| Staples, Inc., HQ Office Supplies Warehouse, Inc., HQ Office Supplies Warehouse, Inc..... | 91-0612 | 02/25/91 |
| UNR Asbestos-Disease Claims Trust, Koninklijke Nederlandsche Hoogovens en Staalfabrieken, Holco Corporation..... | 91-0625 | 02/25/91 |
| JWP Inc., Contra Costa Electric, Inc., Contra Costa Electric, Inc..... | 91-0579 | 02/26/91 |
| Western Gas Resources, Inc., Amoco Corporation, Amoco Production Company..... | 91-0573 | 02/27/91 |
| Associated Natural Gas Corporation, MEGA Natural Gas Company, MEGA Natural Gas Company..... | 91-0593 | 02/27/91 |
| AMAX Inc., Dofasco Inc., Cannelton Holding Company..... | 91-0609 | 02/27/91 |
| Banc One Corporation, Independence Bancorp, Inc., Bucks County Bank and Trust Company..... | 91-0618 | 02/27/91 |
| James A. Pattison Edward J. Safarik** Farwest Fisheries, Inc..... | 91-0569 | 03/01/91 |

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 021991 AND 030191—Continued

| Name of acquiring person, Name of acquired person, Name of acquired entity | PMN number | Date terminated |
|--|------------|-----------------|
| Charles Schusterman, Arkla, Inc., Dyco Petroleum Company... | 91-0602 | 03/01/91 |

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

By Direction of the Commission.
Donald S. Clark,
Secretary.
 [FR Doc. 91-6376 Filed 3-15-91; 8:45 am]
BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of the Comptroller (BCDP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0007, Contractor's Qualification and Financial Information. This information is used to determine whether prospective contractors are financially responsible.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual Reporting Burden:
Respondents: 6,250; annual responses: 1.2; average hours per response: 1.8667; burden hours: 14000.25.

FOR FURTHER INFORMATION CONTACT: Edgar K. Davis, (202) 501-0208. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), room 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: March 7, 1991.

Emily C. Karam,
Director, Information Management Division.
 [FR Doc. 91-6365 Filed 3-15-91; 8:45 am]
BILLING CODE 6820-BN-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Human Services Transportation Technical Assistance Project

Pursuant to section 1110 of the Social Security Act, the Assistant Secretary for Planning and Evaluation and the Deputy Under Secretary for Intergovernmental Affairs, Boards and Commissions (DUSIGA) of the Department of Health and Human Services (DHHS) are seeking applications for technical assistance in the area of human services transportation from national organizations with a record of assisting rural and special transportation needs.

DATES: The closing date for submittal of applications under this announcement is May 17, 1991.

ADDRESSES: An application kit may be requested from: DHHS/DUSIGA, 200 Independence Avenue, SW., room 630-F, Washington, DC 20201, telephone: (202) 245-6036.

APPLICATION RECEIPT POINT: Department of Health and Human Services, ASPE/IO, 200 Independence Avenue, SW., room 426-F, Washington, DC 20201. Attn: Al Cutino.

FOR FURTHER INFORMATION CONTACT: Dianne L. McSwain, DHHS/DUSIGA, 200 Independence Avenue, SW., room 630-F, Washington, DC 20201, Telephone: (202) 245-6036 or (202) 245-3176. Questions may be faxed to (202) 245-5672 (applications may not be faxed for submission).

AWARD INFORMATION: This announcement solicits applications and describes the application process for the award of the cooperative agreement(s). It is the intent of DHHS and the Joint DHHS/Department of Transportation Coordinating Council to fund at least one project, and possibly several projects, which address the various task areas in this announcement. The project period will be for one year. There is no intent to provide additional funding for this effort beyond the twelve-month project period described herein.

Part I. General Information

Legislative Authority

This Transportation Coordination Technical Assistance Project

cooperative agreement(s) is authorized by Section 1110 of the Social Security Act (42 U.S.C. 1310) and awards will be made from funds appropriated under Public Law 101-517 (DHHS Appropriation Act for FY 1991).

Project Purpose

In FY 1990, Congress authorized \$250,000 for the provision of technical assistance to human service transportation providers through DHHS. This effort included the compilation of data on specific target populations, the development of mechanisms for dissemination of information on, and the preparation of a report to the Secretary on the provision of transportation services to human service clients. For FY 1991, the Congress has again authorized funds for the provision of technical assistance in human services transportation and has added additional funding for specific technical assistance in the implementation of the requirements of the Americans with Disabilities Act (ADA). The purpose of this announcement is to solicit applications for the provision of technical assistance to those organizations, agencies and individuals involved in the provision of human services transportation. This announcement represents a follow-on activity to the effort funded in FY 1990.

It is the policy of DHHS to coordinate related programs at the Federal level wherever possible and to promote maximum feasible coordination at the State and local level. Reflecting this policy, the Transportation Coordination Council has set the following goals for the Human Services Transportation Coordination Initiative: (1) To achieve the most cost-effective use of Federal, State and local resources for specialized and human services transportation; (2) to encourage State and local governments to take a more active role in the management and coordination of programs supporting specialized and human services transportation; (3) to adopt administrative and management practices in the implementation of Federal programs which encourage coordination among service providers and increase access to specialized and human services transportation; (4) to share technical resources and information with recipients of Federal assistance and transportation providers; and (5) to encourage the most efficient system of providing services, including consideration of private sector providers and use of competitive bidding.

In support of these goals, DHHS has identified the following objectives for the Human Services Transportation Technical Assistance Project: (1) To

promote the more efficient use of equipment, facilities, and staff resources at the local level; (2) to provide information, technical data, and assistance to State and local agencies to improve management of transportation services and the acquisition of appropriate equipment and facilities; and (3) to increase awareness among DHHS grantees, contractors, and service providers of their obligations under the (ADA), seeking to ensure that existing DHHS-funded transportation efforts targeting the special needs of disabled persons are maintained at current levels and operated in a coordinated manner with other public transit services available in the community. Applicants should reflect an understanding of these goals and objectives in their applications.

Available Funds

DHHS intends to award one or more cooperative agreements resulting from this announcement. The size of the awards will vary depending on the level of effort proposed and the requirements of DHHS in meeting the technical assistance needs of the providers of human services transportation. DHHS anticipates awarding approximately \$496,000 in cooperative agreement(s).

Period of Performance

The start-up date of the project will be July 1, 1991 for a project period of 12 months under this announcement.

Part II. Human Services Transportation Technical Assistance Project—Responsibilities of the Awardees and the Federal Government

The project requires the development of mechanisms to provide: (1) Information, technical assistance, and training to DHHS human services transportation providers on the efficient use of transit resources, equipment and facilities; and (2) targeted technical assistance to State human services agencies and rural and local DHHS recipients providing transportation for the disabled for implementation of the Americans with Disabilities Act requirements. Applicants should be aware of and be sensitive to the need to coordinate the activities herein with the activities taking place under the Rural Transit Assistance Program (RTAP) through the Urban Mass Transportation Administration (UMTA).

Awardee Responsibilities

The following tasks are to be specifically addressed in the project narrative of the application. Applicants are encouraged to be innovative and to suggest additional subtasks that may

improve the potential for successful completion of the task. However, applicants are cautioned to provide suggestions for additional subtasks judiciously with concern for the overall cost of the project. There will be no additional funds beyond those appropriated by Congress for this project. Applicants may choose to address the entire effort described or may address several but not all of the tasks (See part III—Application Preparation and Evaluation criteria).

Task I: Project Planning and Coordination

The awardee shall prepare a detailed work plan, of the activities proposed to meet the stated objectives of the project, including monthly meetings with the Federal project staff and a final report due at the end of the project period;

Task II: Development of Human Services Transportation Resource Center

The awardee shall develop a national clearinghouse of information and technical assistance for developing or improving coordinated transportation systems to be available to State and local human service agencies, planning entities and government decision-makers. A priority of the Center will be the collection and dissemination of information on accessibility issues to assist communities in complying with the transportation provisions of the Americans with Disabilities Act. A second priority of the Center will be the support of regional, State or local groups that seek to improve coordination of human services transportation. Wherever possible within the scope of this effort, such groups will be provided with information and technical assistance that will assist in the development of coordination entities or mechanisms.

The clearinghouse will contain, at a minimum, Federal- and State-produced technical assistance and training materials, Federal human service transit-related legislation and regulations, and other relevant materials as identified by DHHS or the Coordinating Council on Human Services Transportation. In order to maximize the information available and control costs, this clearinghouse effort will be coordinated with the clearinghouse maintained through the Rural Transit Assistance Program (RTAP) through UMTA.

Activities that the recipient will be expected to undertake to accomplish this task include: (1) Developing and operating a telephone hotline to provide

technical assistance and information to organizations and individuals involved in the provision of human services transportation; (2) providing electronic access to the human services transportation resource center (a bi-weekly electronic newsletter might be considered as one aspect of the electronic access); (3) disseminating information through at least a bi-monthly publication on issues of interest to the human services transportation community, including developments in Federal legislation and rulemaking, activities of the Joint DOT/DHHS Coordinating Council on Human Services Transportation, activities identified under Task IV, and examples of model state programs; (4) developing a mechanism for assisting organizations or individuals to obtain requested materials. Applicants are encouraged to develop a mechanism that links organizations with other agencies rather than attempting to store and disseminate documents; and (5) compiling information on the usage of the clearinghouse and hotline, including but not limited to the data on the rate of use, kinds of inquiries, and types of requesting organizations to be included in the monthly project meetings.

Task III: Training Conferences

The awardee shall develop and conduct a series of regional training conferences which will provide a forum for the exchange of information and technologies among human services transportation providers, planners and State and local officials, as well as a conduit for the dissemination of current Federal legislative and regulatory changes affecting the provision of human services transportation. Wherever feasible, these conferences will be scheduled to coincide with other regional activities pertaining to the provision of human services transportation.

At a minimum, these conferences shall address: (1) The efficient use of existing equipment, facilities, and staff resources; (2) the acquisition of appropriate equipment and facilities; (3) the improved management of human services agency resources for transportation services; and (4) "successful practices" models of transportation delivery systems and coordination mechanisms.

It is not the intention of DHHS that each conference will necessarily cover all of the topics listed above, but rather that over the course of the project period each of these topics will be offered at least once, depending on participant interest and resource availability. After each conference, a report on the

conference will be provided at the next monthly project meeting. The conference report will include, at a minimum, information on the numbers and types of attendees, topics covered, and issues raised by the attendees.

Task IV: Outreach to and Support of Regional, State and Local Human Services Transportation Coordination Efforts

The awardee shall coordinate the project activities with those of regional, State and local human services transportation coordination efforts to avoid duplication of efforts and to construct complementary and mutually beneficial activities.

At a minimum, the activities under this task shall include: (1) Identifying and coordinating requests for conveners and facilitators knowledgeable about the coordination of human services transportation for regional, State and local level groups and forums; (2) identifying, tracking and coordinating activities of other major national or regional organizations interested in human services transportation with activities planned under this project and, where feasible, supporting such work through suborganizational agreements under this project; (3) identifying ways to foster the development of regional or multi-state organizations that seek to improve the coordination of human services transportation; and (4) assisting regional, State and local organizations, agencies or consortia to identify and access knowledgeable individuals in other organization who can provide peer-to-peer assistance.

Task V: Targeted Assistance for Implementation of the Americans with Disabilities Act and Coordination of Transportation Services for Persons with Disabilities

The awardee shall inform DHHS-funded human services providers regarding new requirements that human service agencies providing transit services may encounter under the recently enacted Americans with Disabilities Act (ADA). It is anticipated that there will be an increasing demand for paratransit services to persons with disabilities as a result of the provisions of the ADA. To help State human service agencies and rural and local DHHS transportation service providers meet these demands, DHHS will require targeted technical assistance and the provision of information to DHHS grantees, contractors and service providers. This assistance shall include information on specific obligations under the ADA of the various

participants in the transportation networks.

At a minimum, the activities under this task will include: (1) Regional training conferences to be provided under Task III, comprehensive information on all aspects of Federal accessibility requirements, including legal and other obligations under the ADA for the provisions of accessible transportation and paratransit services; (2) providing, through the hotline, electronic access, and publications to be offered under Task II, information on the special transportation accessibility equipment needs of persons with developmental disabilities; and (3) identifying "successful practices" information on the development of community-level plans to coordinate the provision of special rural transportation services for individuals who are developmentally disabled with other community transportation providers (e.g., Area Agencies on Aging, Head Start).

DHHS anticipates that from time to time other activities related to the scope of effort described in this announcement and the work of the Coordinating Council will be identified by the Project Officer. These activities will represent no more than 15% of the entire project effort and will be negotiated with the awardee in context with the other activities under way at the time of request.

Federal Government Cooperative Agreement Responsibilities

DHHS or its representatives will provide: (1) Consultation and technical assistance in planning, operating, and evaluating the technical assistance activities of the project; (2) up-to-date information on Federal Government regulations identified as affecting the provision of transportation services to human service to evaluation of project effectiveness; (4) assistance in clients; (3) assistance in collaborating with appropriate State and local governmental entities in the performance of the project activities; (5) assistance in the identification of DHHS information and technical assistance resources pertinent to the success of this project; and (6) assistance in the transfer of "successful practices" in the human services transportation to other Federal, State and local entities.

Part III. Application Preparation and Evaluation Criteria

This part contains information of the preparation of an application for submission under this announcement, the forms necessary for submission and

the evaluation criteria under which the applications will be reviewed. Potential applicants should read this part carefully in conjunction with the information provided in part II.

To ensure that organizations with the greatest capacity for providing quality services participate in this effort, applicants for funding under the announcement should reflect, in the program narrative section of the application, how they will be able to fulfill the responsibilities and requirements described in this section of the announcement. Applicants may choose to address all the identified tasks or may address two or more of the tasks. However, applicants must propose to accomplish Task 1 and at least one additional task at a minimum. All applications must address Task 1. Submissions will not be considered that address less than the effort described under two of the enumerated tasks. DHHS reserves the right to award the entire effort to one organization or to separate the effort into multiple projects depending on the scope and quality of the submissions. It is the intent of DHHS to make sufficient awards as to accomplish the entire scope of effort described in this announcement, if submissions of sufficient scope and quality are received to permit it.

The applicant should include: (1) A management plan, which sets forth how the project will be managed and who will be the key personnel involved, including a Gantt chart and other graphics which specifically display the management information provided in text; and (2) a budget plan, which specifically delineates the costs associated with the project. When the applicant chooses to suggest additional efforts to support a task, the cost of those additional efforts (not required by this announcement) should be separately identified. However, at no time will a proposed budget in excess of \$496,000 be considered for funding, unless the amount in excess of \$496,000 represents grantee cost-sharing.

Review Process and Funding Information

Applications that are submitted by the deadline date and which meet the screening criteria will be reviewed and scored competitively. Members of the Transportation Coordination Council Work Group or delegates will review the applications using the evaluation criteria, listed below, to score the applications. These review results will be a primary factor in funding decisions.

DDHS reserves the option to discuss applications with other Federal agencies, Central or Regional Office

staff, specialists, experts, States and the general public. Comments from these sources, along with those of the Work Group reviewers, will be considered in making funding decisions.

State Single Point of Contact (E.O. No. 12372)

The Department of Health and Human Services has determined that this program is not subject to Executive Order No. 12372, Intergovernmental Review of Federal Programs, because it is a program that is national in scope and does not directly affect State and local governments. Applicants are not required to seek intergovernmental review of their applications within the constraints of E.O. No. 12372.

Deadline for Submittal of Applications

The closing date for submittal of applications under this announcement is May 17, 1991. Applications must be postmarked or hand-delivered to the application receipt point no later than 5 p.m. on May 17, 1991.

Hand-delivered applications will be accepted Monday through Friday prior to and on May 17, 1991, during the working hours of 9 a.m. to 5 p.m. in the lobby of the Hubert H. Humphrey building located at 200 Independence Avenue, SW., in Washington, DC. When hand-delivering an application, call (202) 245-1794 from the lobby for pick up. A staff person will be available to receive applications.

An application will be considered as meeting the deadline if it is either: (1) Received at, or hand-delivered to, the mailing address on or before May 17, 1991, or (2) Postmarked before midnight of the deadline date, May 17, 1991, and received in time to be considered during the competitive review process (within two weeks of the deadline date).

When mailing application packages, applicants are strongly advised to obtain a legibly dated receipt from a commercial carrier (such as UPS, Federal Express, etc.) or from the U.S. Postal Service as proof of mailing by the deadline date. If there is a question as to when an application was mailed, applicants will be asked to provide proof of mailing by the deadline date. When proof is not provided, an application will not be considered for funding. Private metered postmarked are not acceptable as proof of timely mailing.

DHHS reserves the right to extend the deadline for all applications due to acts of God, such as floods, hurricanes or earthquakes; due to acts of war; if there is widespread disruption of the mail; or if DHHS determines a deadline extension to be in the best interest of the

Government. However, DHHS will not waive or extend the deadline for any applicant unless the deadline is waived or extended for all applicants.

Application Requirements

Applicants are advised to read and follow this section very carefully. Applications which do not meet these initial requirements may not be considered or reviewed in the competition, and the applicant will be so informed. A complete and conforming application must meet the following requirements:

Eligible Applicants: National Organization and Experience

Congress stated its intent that eligible applicants are "national organization[s] with a record of assisting rural and special transportation needs."

Application Forms

See section entitled "Components of a Complete Application". All of these documents must accompany the application package.

Application Forms

See section entitled "Components of a Complete Application". All of these documents must accompany the application package.

Maximum Length

No specific limit will be set for the length of the application. However, applications that are overly long and/or contain superfluous material will be viewed as indicating an inefficient approach.

Evaluation Criteria

The evaluation criteria correspond to the outline for the development of the Program Narrative Statement of the application. Although not mandatory, it is strongly recommended that applications be prepared with the format indicated by this outline.

Applications which meet the initial requirements will be reviewed by a panel of at least three reviewers. Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below, provide comments and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section will be given in the review process.

1. Understanding of the Effort. The application discusses in detail the applicant's understanding of the need for the project, the background and evolution of the effort to coordinate

human services transportation, and the significant participants in the coordination effort. The application relates the project to the goals and objectives described in the first section of this announcement. 10 points

2. Project Approach. The application outlines a sound and workable plan of action pertaining to the scope of the project and details how the proposed tasks will be accomplished; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary community, volunteer or private sector involvement; and provides for projections of the accomplishments to be achieved. It lists the activities to be carried out in chronological order, showing a reasonable schedule of accomplishments and target dates.

To the extent applicable, the application identifies the kinds of data to be collected and/or maintained, and discusses the criteria to be used to evaluate the results and successes of the project. It describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. The application also lists each organization, agency, consultant, or other key individuals or groups who will work on the project, along with a description of the activities and nature of their effort or contribution. 35 points

3. Staffing Utilization, Staff Background and Experience. The application identifies the background of the principal project staff members. The name, address, training, educational background, and other qualifying experience are provided for the project director and the key project staff. The applicant provides assurance that the proposed staff will be available to work on the project effort upon award of the cooperative agreement. The principal author of the application is identified and that person's role in the project is identified. 20 points

4. Organizational Experience. The application identifies the qualifying experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The application specifically identifies the applicant as a national organization or large institution with a record of assisting rural and special transportation needs. The relationship between this project and other work planned, anticipated, or underway by

the applicant is described, including a chart which lists all related Federal assistance received within the last five years. The previous Federal assistance is identified by project number, Federal agency, and grants or contracting officer. 35 points

Components of a Complete Application

A complete application consists of the following items in this order:

1. Application for Federal Assistance (Standard Form 424, REV 4-88);
2. Budget Information—Non-construction Programs (Standard Form 424A, REV 4-88);
3. Assurances—Non-construction Programs (Standard Form 424B, REV 4-88);
4. Table of Contents;
5. Budget justification for Section B—Budget Categories;
6. Proof of non-profit status, if appropriate;
7. Copy of the applicant's approved indirect cost rate agreement, if necessary;
8. Project Narrative Statement, organized in four sections addressing the following areas:
 - (a) Understanding of the effort,
 - (b) Project approach,
 - (c) Staffing utilization, staff background, and experience
 - (d) Organizational experience;
9. Any appendices/attachments;
10. Certification Regarding Drug-Free Workplace;
11. Certification Regarding Debarment, Suspension and Other Responsibility Matters; and
12. Certification and, if necessary, Disclosure Regarding Lobbying.
13. Supplement to Section II—Key Personnel.
14. Application for Federal Assistance Checklist.

Date: March 11, 1991.

Martin H. Gerry,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 91-6392 Filed 3-15-91; 8:45 am]

BILLING CODE 4110-60-M

Agency for Health Care Policy and Research

Development of Clinical Guidelines for Low Back Disorders

The Agency for Health Care Policy and Research announces that it is establishing a panel of experts and health care consumers to develop clinical practice guidelines for low back disorders and related conditions and invites nominations of qualified individuals to serve as the chairperson(s) and as panel members.

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239) enacted on December 19, 1989, added a new title IX to the Public Health Service Act (the Act), which established the Agency for

Health Care Policy and Research (AHCPR) to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services. The AHCPR is to achieve its goals through the establishment of a broad base of scientific research and through the promotion of improvements in clinical practice and in the organization, financing and delivery of health care services.

Section 911 of the Act (42 U.S.C. 299b) established within the AHCPR the Office of the Forum for Quality and Effectiveness in Health Care (the Forum). Through this office, the Agency is arranging for the development and periodic review and updating of clinically relevant guidelines that may be used by physicians, educators, and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

Section 912 of the Act requires that the guidelines be:

1. Based on the best available research and professional judgment;
2. Presented in formats appropriate for use by physicians, health care practitioners, providers, medical educators, medical review organizations, and consumers of health care; and
3. In forms appropriate for use in clinical practice, educational programs, and reviewing quality and appropriateness of medical care.

Section 913 of the Act describes two mechanisms through which the Forum and the Agency can arrange for the development of guidelines: 1. Panels of qualified experts and health care consumers can be convened, and 2. Contracts can be awarded to public and private nonprofit organizations. The Agency has elected to use the panel process for the development of clinical practice guidelines for low back disorders.

Panel Nominations

The panel of qualified experts and health care consumers that will develop the guidelines for low back disorders will consist of a chairperson(s) and nine to fifteen members. To assist in identifying members for the panel, AHCPR is requesting recommendations from a broad range of interested individuals and organizations, including physicians representing specialty and general practices, nurses, and allied health and other health care practitioners, as well as consumers with pertinent experience or information.

AHCPR is especially interested in receiving nominations of individuals with experience in developing guidelines for low back disorders and related conditions, persons with experience in basic and clinical research in low back disorders and related conditions, persons with experience in the variety of clinical skills used in the care of patients with low back disorders and related conditions, persons representing groups of people at special risk of low back disorders and related conditions, and persons with experience in the economic consequences of low back disorders and related conditions, and patients who have low back disorders and related conditions.

This Notice requests nominations of qualified individuals to serve on the panel as members and as panel chairperson(s). The functions of the panel chairperson(s) are critical to the guideline development process and the final product. The chairperson(s) will provide leadership to the panel regarding methodology, literature review, panel deliberations, and formation of the final product.

Nominations for the chairperson(s) should take into consideration the criteria specified below, which the AHCPR will use in making its selection.

AHCPR will appoint the panel chairperson(s) from among the nominations received using criteria that include the following:

- Relevant training and clinical experience
- Demonstrated interest in quality assurance and research on the clinical condition including publication of relevant peer-reviewed articles
- Commitment to the need to produce clinical guidelines
- Recognition in the field with a record of leadership in relevant activities
- Broad public health view of the utility of particular procedure(s) or clinical service(s)
- Demonstrated capacity to lead a health care team in a group decisionmaking process
- Demonstrated capacity to respond to consumer concerns
- Prior experience in developing guidelines for the clinical conditions in question.

Once the panel chairperson(s) have been appointed, the nominations for members of the panel will be submitted for further review and consideration to the selected chairperson(s), who will in turn recommend proposed panel members to AHCPR. Appointments of the panel members will be made by the AHCPR, after review of proposed

members' qualifications and the overall composition of the panel to ensure representation of a range of experience and expertise.

Nominations should indicate whether the individual is being recommended to serve as the panel chairperson(s) or to serve as a member of the panel. Each nomination must include a copy of the individual's curriculum vitae or resume, plus a statement of the rationale for the specific nomination. To be considered, nominations must be received by April 30, 1991 at the following address: Office of the Forum on Quality and Effectiveness in Health Care, Attention: Stephen H. King, M.D., Agency for Health Care Policy and Research, 5600 Fishers Lane, Parklawn Building, room 18A46, Rockville, MD 20857.

For Additional Information

Additional information on the guideline development process is contained in the AHCPR Program Note, *Clinical Guideline Development*, dated August 1990. This Program Note, describing the activities underway by AHCPR for developing clinical practice guidelines, includes the process and criteria for selecting the panels. Copies may be obtained by calling the Center for Research Dissemination and Liaison, Agency for Health Care Policy and Research, at (301) 443-2904.

For further information on the process for developing guidelines for low back disorders and related conditions, contact Stephen H. King, M.D., Chief Medical Officer, Agency for Health Care Policy and Research, at the above address.

Dated: March 12, 1991.

J. Jarrett Clinton,
Assistant Surgeon General, Acting Administrator.

[FR Doc. 91-6389 Filed 3-15-91; 8:45 am]

BILLING CODE 4160-17-M

Food and Drug Administration

[Docket No. 91N-0017]

Merrell Dow Pharmaceuticals, Inc. et al.; Withdrawal of Approval of Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that announced the voluntary withdrawal, based on written request of the applicants, of 70 abbreviated new drug applications (ANDA's), including

ANDA 80-481, Hydrocortisone Ointment, 0.5% and 1%, held by C&M Pharmacal, Inc., 1519 E. Eight Mile Rd., Hazel Park, MI 48030-2696. The approval of the 1% Hydrocortisone Ointment should not have been withdrawn; the withdrawal of approval applies only to that portion of the ANDA that pertains to the 0.5% Hydrocortisone Ointment. That portion of ANDA 80-481 that pertains to 1% Hydrocortisone Ointment is still an approved application. This document corrects that error.

EFFECTIVE DATE: March 13, 1991.

FOR FURTHER INFORMATION CONTACT:

Lola E. Batson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.

In FR Doc. 91-3231, appearing at page 5416 in the *Federal Register* of Monday, February 11, 1991, the following correction is made: On the same page, in the table, in the entry for ANDA 80-481, the drug name is corrected to read "Hydrocortisone Ointment, 0.5%."

Dated: March 10, 1991.

Carl C. Peck,
Director, Center for Drug Evaluation and Research.

[FR Doc. 91-6325 Filed 3-15-91; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Office of the Assistant Secretary for Health; Title III, Part D, of the Public Health Service Act; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority to the Administrator, Health Resources and Services Administration, on February 13, 1991, by the Assistant Secretary for Health, the Administrator has delegated to the Director, Bureau of Health Care Delivery and Assistance, all of the authorities under title III, part D, of the Public Health Service Act, as amended, pertaining to Primary Health Care, excluding the authorities to issue regulations, to submit reports to Congress or a congressional committee, to establish advisory committees or councils, or to appoint members to advisory committees or councils.

This delegation also excluded the authorities under section 338J pertaining to State offices of rural health which was delegated to the Director, Office of Rural Health Policy.

Redelegation

This authority may be redelegated.

Prior Delegations

All previous delegations and redelegations under title III of the Public Health Service Act shall continue in effect, provided they are consistent with this delegation.

Effective Date

This delegation became effective on March 11, 1991.

Dated: March 11, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91-6326 Filed 3-15-91; 8:45 am]

BILLING CODE 4160-15-M

Office of the Assistant Secretary for Health; Title III of the Public Health Service Act; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority to the Assistant Secretary for Health on January 14, 1981, by the Secretary of Health and Human Services, the Assistant Secretary for Health has delegated to the Director, National Institutes of Health, authority under title III of the Public Health Service (PHS) Act, section 379, as amended, to establish a National Bone Marrow Donor Registry.

This delegation excludes the authorities to issue regulations, to submit reports to Congress or a congressional committee, to establish advisory committees or councils, or to appoint members to advisory committees or councils.

In addition, the Assistant Secretary for Health affirmed and ratified any actions taken by NIH involving the exercise of authorities delegated herein prior to the effective date of this delegation.

Redelegation

This authority may be redelegated.

Effective Date

This delegation became effective on March 7, 1991.

Dated: March 7, 1991.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 91-6327 Filed 3-15-91; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration**[Social Security Ruling SSR 91-2c]**
Disabled Widow's Insurance Benefits—Immediate Appealability of a Court Remand Order

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 91-2c. This Ruling is based on a Supreme Court decision and concerns the immediate appealability of a district court remand order that had not sustained the Secretary's decision that a claimant was not disabled in a surviving spouse case.

EFFECTIVE DATE: March 18, 1991.

FOR FURTHER INFORMATION CONTACT: John W. Modler, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235 (301) 965-1713.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings are based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the *Federal Register* to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806 Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income)

Dated: February 5, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Sections 202(e), 205(g), and 223(d) of the Social Security Act (42 U.S.C. 402(e), 405(g), and 423(d)) Disabled Widow's Insurance Benefits—Immediate Appealability of a Court Remand Order

20 CFR 404.1577, 404.1578(a)(1), and Regulations No. 4, subpart P, Appendix 1

Sullivan v. Finkelstein, _____ U.S. _____, 110 S.Ct. 2658 (1990)

This ruling concerns the immediate appealability of a district court remand order that had in effect invalidated the Secretary's regulations for determining disability in surviving spouse cases.

The claimant applied for widow's insurance benefits, contending that she was disabled under 42 U.S.C. 423(d)(2)(B). Under that statute as in effect at all times pertinent herein, a widow was disabled if her impairment was of a level of severity deemed sufficient by the Secretary's regulations to preclude an individual from engaging in any gainful activity. Under the Secretary's implementing regulations, a surviving spouse was deemed disabled only if the spouse suffered from an impairment meeting or equaling the severity of an impairment included in the Secretary's Listing of Impairments. The Secretary found that the claimant was not suffering from such an impairment and denied her application. The claimant then sought judicial review in a United States district court under 42 U.S.C. 405(g).

Even though the district court sustained the Secretary's finding that the claimant was not suffering from an impairment that met or equaled a listed impairment, it concluded that the Secretary's ultimate decision that the claimant was not disabled could not be sustained because other medical evidence suggested that the claimant might not be able to engage in any gainful activity. Therefore, the district court reversed the Secretary's decision and remanded the case for further consideration of the claimant's medical condition. After the court of appeals dismissed the Secretary's appeal for lack of jurisdiction, holding that "remands to administrative agencies are not ordinarily appealable," the Supreme Court granted *certiorari*.

The Supreme Court found that the district court's remand order was unquestionably a "judgment" within the meaning of 42 U.S.C. 405(g) as it terminated the civil action that challenged the Secretary's final decision that the claimant was not entitled to

benefits, set aside that decision, and essentially invalidated the Secretary's regulations for deciding the disability issue. The Supreme Court held that such an order, as a "judgment", constituted a "final decision" within the context of 28 U.S.C. 1291 and, thus, was immediately appealable. Accordingly, the Supreme Court reversed the judgment of the court of appeals and remanded the case for further proceedings consistent with its opinion.

White, Supreme Court Justice:

We granted certiorari to decide whether the Secretary of Health and Human Services may immediately appeal a district court order effectively declaring invalid regulations that limit the kinds of inquiries that must be made to determine whether a person is entitled to disability insurance benefits and remanding a claim for benefits to the Secretary for consideration without those restrictions. We hold that the Secretary may appeal such an order as a "final decision" under 28 U.S.C. 1291.¹

Respondent Finkelstein is the widow of a wage earner who died in 1980 while fully insured under title II of the Social Security Act, 49 Stat. 622, as amended, 42 U.S.C. § 401 *et seq.* (1982 ed.). In 1983, respondent applied to the Social Security Administration for widow's disability benefits, claiming that her heart condition made her disabled within the meaning of the section of the Social Security Act providing for surviving spouses' disability insurance benefit payments, section 223, as added, 70 Stat. 815, and as amended, 42 U.S.C. 423(d)(1)(A), (d)(2)(B) (1982 ed. and Supp. V).

Section 423(d)(2)(B) states that a widow shall not be determined to be disabled unless her impairment is of a level of severity which, "under regulations prescribed by the Secretary [of Health and Human Services]," is deemed sufficient to preclude an individual from engaging in any gainful activity. Under regulations promulgated by the Secretary, 20 CFR 404.1577, 404.1578(a)(1) (1989), a surviving spouse is deemed disabled only if the spouse suffers from a physical or mental impairment meeting or equaling the severity of an impairment included in the Secretary's Listing of Impairments located at Appendix 1 to 20 CFR pt. 404, subpt. P (1989). If the surviving spouse's impairment does not meet or equal one of the listed impairments, the Secretary will not find the spouse disabled; in

particular, the Secretary will not consider whether the spouse's impairment nonetheless makes the spouse disabled, given the spouse's age, education, and work experience.

The Secretary's practice for spouses' disability insurance benefits thus differs significantly from the regulations for determining whether a wage earner is entitled to disability insurance benefits. For wage earners, the Secretary has established a "five-step sequential evaluation process for determining whether a person is disabled." *Bowen v. Yuckert*, 482 U.S. 137, 140, 107 S.Ct. 2287, 2290, 96 L.Ed.2d 119 (1987). Under that five-step process, even if a wage earner's impairment does not meet or equal one of the listed impairments, the wage earner may nonetheless be entitled to disability insurance benefits if the Secretary determines that his "impairment in fact prevents him from working." *Sullivan v. Zebley*, 493 U.S. _____, 110 S.Ct. 885, 893, 107 L.Ed.2d 967 (1990). The Secretary maintains that the difference between the wage earner regulations and the surviving spouse regulations is supported by a difference between the two pertinent statutory definitions of disability. Compare 42 U.S.C. 423(d)(2)(A) with 423(d)(2)(B).

Respondent's application for benefits was denied on the ground that her heart condition did not meet or equal a listed impairment. After exhausting administrative remedies, respondent sought judicial review of the Secretary's decision in the United States District Court for the District of New Jersey, invoking section 205(g) of the Social Security Act, as amended, 53 Stat. 1370, 42 U.S.C. 405(g) (1982 ed.).²

² Title 42 U.S.C. 405(g) (1982 ed.) provides: "Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) of this section which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of the claimant or such individual to submit

The District Court sustained the Secretary's conclusion that respondent did not suffer from an impairment that met or equaled a listed impairment. See App. to Pet. for Cert. 16a. The District Court nonetheless concluded that "the case must be remanded to the Secretary," *id.*, at 17a, because the record was "devoid of any findings" regarding respondent's inability to engage in any gainful activity even though her impairment was not equal to one of the listed impairments, see *ibid.*

The Court of Appeals for the Third Circuit dismissed the Secretary's appeal for lack of jurisdiction. 869 F.2d 215 (1989). The Court of Appeals relied on its past decisions holding that "remands to administrative agencies are not ordinarily appealable." *Id.*, at 217 (citation omitted). Although the Court of Appeals acknowledged an exception to that rule for cases "in which an important legal issue is finally resolved and review of that issue would be foreclosed 'as a practical matter' if an immediate appeal were unavailable," *ibid.* (citation omitted), that exception was deemed inapplicable in this case because the Secretary might persist in refusing benefits even after consideration of respondent's residual functional capacity on remand, and the District Court might thereafter order that benefits be granted, thereby providing the Secretary with an appealable final decision, *Id.*, at 220. The Court of Appeals conceded that the Secretary might not be able to obtain review at a later point if he concluded on remand that respondent was entitled to benefits based on her lack of residual functional

proof in conformity with any regulation prescribed under subsection (a) of this section, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding; and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office."

¹ Title 28 U.S.C. 1291 provides that "[t]he courts of appeals . . . shall have jurisdiction of appeals from all final decisions of the district courts . . . except where a direct review may be had in the Supreme Court."

capacity, but it believed this argument for immediate appealability to be foreclosed by a prior decision of the Circuit. *Ibid.* We granted certiorari, 493 U.S. _____, 110 S.Ct. 862, 107 L.Ed.2d 947 (1990).

II

We begin by noting that the issue before us is not the broad question whether remands to administrative agencies are always immediately appealable. There is, of course, a great variety in remands, reflecting in turn the variety of ways in which agency action may be challenged in the district courts and the possible outcomes of such challenges.³ The question before us rather is whether orders of the type entered by the District Court in this case are immediately appealable by the Secretary. It is necessary therefore to consider precisely what the District Court held and why it remanded this case to the Secretary.

Although the District Court sustained the Secretary's conclusion that respondent did not suffer from an impairment that met or equaled the severity of a listed impairment, it concluded that the Secretary's ultimate conclusion that respondent was not disabled could not be sustained because other medical evidence suggested that respondent might not be able to engage in any gainful activity.⁴ Considering it "anomalous" that an impairment actually leaving respondent without the residual functional capacity to perform any gainful activity could be insufficient to warrant benefits just because it was not equal to one of the listed impairments, the District Court directed the Secretary "to inquire whether [respondent] may or may not engage in any gainful activity, as contemplated by the Act." App. to Pet. for Cert. 18a. The District Court's order thus essentially invalidated, as inconsistent with the

³ For example, a district court may on occasion order a remand to an agency even though the district court action was filed by the agency, not someone seeking judicial review, e.g., *United States v. Alcon Laboratories*, 636 F.2d 876 (CA1), cert. denied, 451 U.S. 1017, 101 S.Ct. 3005, 69 L.Ed.2d 388 (1981). In order cases the district court may order a remand to the agency but the person seeking judicial review may seek to appeal on the ground that broader relief should have been granted by the district court, e.g., *Bohms v. Gardner*, 381 F.2d 283 (CA8 1967), cert. denied, 390 U.S. 964, 88 S.Ct. 1069, 19 L.Ed.2d 1164 (1968). None of these situations is presented in this case, and we express no opinion about appealability in those circumstances.

⁴ Specifically, the District Court noted that an Administrative Law Judge "found that the 'medical findings shown in the medical evidence of record establish the existence of mitral valve prolapse,'" App. to Pet. for Cert. 17a, which does not meet or equal one of the listed impairments but might, in the District Court's view, prevent respondent from engaging in any gainful activity. *ibid.*

Social Security Act, the Secretary's regulations restricting spouses' disability insurance benefits to those claimants who can show that they have impairments with "specific clinical findings that are the same as * * * or are medically equivalent to" one of the listed impairments, 20 CFR 404.1578(a)(1) (1989). Cf. *Heckler v. Campbell*, 461 U.S. 458, 465-466, 103 S.Ct. 1952, 1956, 76 L.Ed.2d 66 (1983). The District Court stated that it was "remand[ing]" the case to the Secretary because the record contained no findings about the functional impact of respondent's impairment; in effect it ordered the Secretary to address respondent's ailment without regard for the regulations that would have precluded such consideration. The District Court's order thus reversed the Secretary's conclusion that respondent was not disabled and remanded for further consideration of respondent's medical condition.

Once the nature of the District Court's action is made clear, it becomes clear how this action fits into the structure of section 405(g). The first sentence of section 405(g) provides that an individual denied benefits by a final decision of the Secretary may obtain judicial review of that decision by filing "a civil action" in federal district court. The use of the term "a civil action" suggests that at least in the context of section 405(g), each final decision of the Secretary will be reviewable by a separate piece of litigation.⁵ The fourth and eighth sentences of section 405(g) buttress this conclusion. The fourth sentence states that in such a civil action, the district court shall have the power to enter "a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing." (Emphasis added.) This sentence describes the action that the District Court actually took in this case. In particular, although the fourth sentence clearly foresees the possibility that a district court may remand a cause to the Secretary for rehearing (as the District Court did here), nonetheless such a remand order is a "judgment" in the terminology of section 405(g). What happened in this case is that the District Court entered "a judgment . . . reversing the decision of the Secretary, with . . . remanding the cause for a rehearing." The District Court's remand order was unquestionably a "judgment," as it

⁵ Neither party suggests that the Secretary's decision denying respondent benefits without considering her mitral valve prolapse was not a "final decision of the Secretary" within the meaning of section 405(g).

terminated the civil action challenging the Secretary's final determination that respondent was not entitled to benefits, set aside that determination, and finally decided that the Secretary could not follow his own regulations in considering the disability issue. Furthermore, should the Secretary on remand undertake the inquiry mandated by the District Court and award benefits, there would be grave doubt, as the Court of Appeals recognized, whether he could appeal his own order. Thus it is that the eighth sentence of section 405(g) provides that "[t]he judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions." (Emphasis added.)

Respondent makes several arguments countering this construction of section 405(g) and of the District Court's order, none of which persuades us. First, respondent argues that the remand in this case was ordered not pursuant to the fourth sentence of section 405(g), but under the sixth sentence of that section, which states in pertinent part that the District Court may "at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding." Respondent points out that the District Court stated that it was ordering a remand because the evidence on the record was insufficient to support the Secretary's conclusion and that further factfinding regarding respondent's ailment was necessary. We do not agree with respondent that the District Court's action in this case was a "sixth-sentence remand." The sixth sentence of section 405(g) plainly describes an entirely different kind of remand, appropriate when the district court learns of evidence not in existence or available to the claimant at the time of the administrative proceeding that might have changed the outcome of that proceedings.⁶

⁶ See, e.g., *Caulder v. Bowen*, 791 F.2d 872 (CA11 1986); *Dorders v. Heckler*, 777 F.2d 954, 955 (CA4 1985); *Newhouse v. Heckler*, 753 F.2d 283, 287 (CA3 1985); *Booz v. Secretary of Health and Human Services*, 734 F.2d 1378, 1381 (CA9 1984); *Dorsey v. Heckler*, 702 F.2d 597, 604-605 (CA5 1983); *Cagle v. Califano*, 638 F.2d 219, 221 (CA10 1981). Although all the Circuits recognize that new evidence must be "material" to warrant a sixth-sentence remand, it is not clear whether the Circuits have interpreted the requirement of materiality in the same way. See *Dorsey*, *supra*, at 605, n. 9 (criticizing "stricter position" of Fourth and Tenth Circuits); *Godsey v. Bowen*, 832 F.2d 443, 444 (CA7 1987) (expressing skepticism about existence of conflict); *Borders*, *supra*, at 956 (also skeptical). We express no opinion on the proper definition of materiality in this context.

For the same reason, we reject respondent's argument, based on the seventh sentence of section 405(g), that the district court may enter an applicable final judgment upon reviewing the Secretary's postremand "additional or modified findings of fact and decision." The postremand review conducted by the District Court under the seventh sentence refers only to cases that were previously remanded under the sixth sentence. The seventh sentence states that the district court may review "[s]uch additional or modified findings of fact," a reference to the second half of the sixth sentence of section 405(g), which requires that "the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both and shall file with the court any such additional and modified findings of fact and decision * * *." The phrase "such additional evidence" refers in turn to the "additional evidence" mentioned in the first half of the sixth sentence that the district court may order the Secretary to take in a sixth-sentence remand. See *supra*, at _____. But as the first half of the sixth sentence makes clear, the taking of this additional evidence may be ordered only upon a showing that there is material new evidence. The postremand judicial review contemplated by the seventh sentence of section 405(g) does not fit the kind of remand ordered by the District Court in this case.

Respondent also argues that the eighth sentence of section 405(g), providing that the judgment of the district court "shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions," does not compel the conclusion that a judgment entered pursuant to the fourth sentence is immediately appealable. In respondent's view, Congress used the term "final" in the eighth sentence only to make clear that a court's decision reviewing agency action could operate as law of the case and *res judicata*. Cf. *City of Tacoma v. Taxpayers of Tacoma*, 357 U.S. 320, 336, 78 S.Ct. 1209, 1218, 2 L.Ed.2d 1345 (1958). But even if it is true that Congress used the term "final" to mean "conclusively decided," this reading does not preclude the construction of "final" to include "appealable," a meaning with which "final" is usually coupled. Nor does respondent consider the significance of Congress' use of the term "judgment" to describe the action taken by the District

Court in the case.⁷ Although respondent argues that the words "final decisions," as used in 28 U.S.C. 1291, encompass no more than what was meant by the terms "final judgments and decrees" in the predecessor statute to 1291, respondent recognizes that "final judgments" are at the core of matters appealable under § 1291, and respondent does not contest the power of Congress to define a class of orders as "final judgments" that by inference would be appealable under § 1291. Cf. *Sears, Roebuck & Co. v. Mackey*, 351 U.S. 427, 434, 76 S.Ct. 895, 899, 100 L.Ed. 1297 (1956). This is what Congress has done in the fourth sentence of section 405(g).⁸

⁷ It is true, as respondent maintains, that the District Court did not caption its order as a "judgment," much less a "final judgment." The label used by the District Court of course cannot control the order's appealability in this case, any more than it could when a District Court labeled a nonappealable interlocutory order as a "final judgment." See *Liberty Mutual Ins. Co. v. Wetzel*, 424 U.S. 737, 96 S.Ct. 1202, 47 L.Ed.2d 435 (1976).

⁸ Respondent also makes two arguments based on subsequent legislative history to counter the conclusion that Congress intended orders entered under the fourth sentence of section 405(g) to be appealable final judgments. First, she relies on a committee print prepared by the Social Security Subcommittee of the House Ways and Means Committee which, in summarizing amendments to the Social Security Act, stated that under prior law, a district court could remand a case to the Secretary on its own motion and that the judgment of the district court would be final after the Secretary filed any modified findings of fact and decision with the court and that no change had been made by the amendments. See Subcommittee on Social Security of the House Committee on Ways and Means, *The Social Security Amendments of 1977: Brief Summary of Major Provisions and Detailed Comparison With Prior Law*, WMCP No. 95-72, p. 26 (Comm. Print 1978) (Brief Summary). The committee print's observations are entirely consistent with the construction we have placed on remands ordered under the sixth sentence of section 405(g). Moreover, leaving aside all the usual difficulties inherent in relying on subsequent legislative history, see, e.g., *United States v. Mine Workers*, 330 U.S. 258, 281-282, 67 S.Ct. 677, 690, 91 L.Ed. 884 (1947), we note that the print specifically warned that it was prepared by the subcommittee staff for informational purposes only and was not considered or approved by the subcommittee, and that it was designed not to be a section-by-section analysis of the amendments but only a "narrative synopsis." Brief Summary, at I, V. We therefore cannot assign this committee print any significant weight.

Second, respondent relies on a House Judiciary Report on amendments to the Equal Access to Justice Act (EAJA), stating that a district court's remand decision under section 405(g) is not a "final judgment." H.R.Rep. No. 99-120, p. 19 (1985), U.S.Code Cong. & Admin.News 1985, pp. 132, 147. Again, we cannot conclude that this subsequent legislative history overthrows the language of section 405(g). In the first place this part of this particular committee report concerned the proper time period for filing a petition for attorney's fees under EAJA, not appealability. Second, the committee relied in particular on *Guthrie v. Schweiker*, 718 F.2d 104 (CA4 1983), for the proposition that a remand order is not a final judgment, but *Guthrie* also concerned the time for filing an attorney's fee petition, and it is far from

More generally, respondent argues that a power in the district court to remand to an agency is always incident to the power to review agency action and that section 405(g) only expanded the district courts' equitable powers; therefore, she insists, it is improper to construe section 405(g) as a limit on the district courts' power to remand. This argument misapprehends what Congress sought to accomplish in section 405(g). The fourth sentence of section 405(g) does not "limit" the district courts' authority to remand. Rather the fourth sentence directs the entry of a final, appealable judgment even though that judgment may be accompanied by a remand order. The fourth sentence does not require the district court to choose between entering a final judgment and remanding, to the contrary, it specifically provides that a district court may enter judgment "with or without remanding the cause for a rehearing."

Finally, respondent argues that we have already decided last Term, in *Sullivan v. Hudson*, 490 U.S. _____, 109 S.Ct. 2248, 104 L.Ed.2d 941 (1989), that a remand order of the kind entered in this case is not appealable as a final decision. Although there is language in *Hudson* supporting respondent's interpretation of that case, we do not find that language sufficient to sustain respondent's contentions here. In *Hudson*, we held that under the Equal Access to Justice Act (EAJA), 28 U.S.C. 2412(d)(1)(A), a federal court may award a Social Security claimant attorney's fees for representation during administrative proceedings held pursuant to a district court order remanding the action to the Secretary. We were concerned there with interpreting the term "any civil action" in the EAJA,⁹ not with deciding whether a remand order could be appealed as a "final decision" under 28 U.S.C. 1291. We noted in *Hudson* that the language of § 2412(d)(1)(A) must be construed with reference to the purpose of the

clear that *Guthrie* did not involve a sixth-sentence remand. *Guthrie*, in turn, relied on *Gilchrist v. Schweiker*, 645 F.2d 818, 819 (CA9 1981), which, quite unlike the present case, involved an appeal from a district court remand order than did "no more than order clarification of the administrative decision."

⁹ Title 28 U.S.C. 2412(d)(1)(A) provides in pertinent part:

"Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses . . . incurred by that party in any civil action . . . including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust."

EAJA and the realities of litigation against the Government. The purpose of the EAJA was to counterbalance the financial disincentives to vindicating rights against the Government through litigation; given this purpose, we could not believe that Congress would "throw the Social Security claimant a lifeline that it knew was a foot short" by denying her attorney's fees for the mandatory proceedings on remand. *Hudson, supra*, at _____, 109 S.Ct., at 2256. We also recognized that even if a claimant had obtained a remand from the district court, she would not be a "prevailing party" for purposes of the EAJA until the result of the administrative proceedings held on remand was known. 490 U.S., at _____, 109 S.Ct., at _____. We therefore concluded that for purposes of the EAJA, the administrative proceedings on remand "should be considered part and parcel of the action for which fees may be awarded." *Id.*, at _____, 109 S.Ct., at 2255. We did not say that proceedings on remand to an agency are "part and parcel" of a civil action in federal district court for all purposes, and we decline to do so today.

Accordingly, the judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Justice White delivered the opinion of the Court, in which Chief Justice Rehnquist and Justice Brennan, Marshall, Stevens, O'Connor, and Kennedy joined, and in which Justice Scalia joined except as to n.8. Justice Scalia filed an opinion concurring in part. Justice Blackman filed a concurring opinion.

[FR Doc. 91-6383 Filed 3-15-91; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plan for the Autumn Buttercup (*Ranunculus acriformis* var. *aestivalis*), for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the draft recovery plan for the autumn buttercup (*Ranunculus acriformis* var. *aestivalis*), a plant from the Upper Sevier River Valley in southern Utah. This species is known from only one occurrence in a spring-fed bog in a wet meadow along

the Sevier River near Bear Valley Junction in Garfield County, Utah. The Service solicits review and comment from the public on this draft recovery plan.

DATES: Comments on the draft recovery plan must be received on or before May 17, 1991, to ensure they receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting Field Supervisor, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, 2060 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104, 801/524-4430 or (FTS) 588-4430; written comments and materials regarding this plan should be sent to the Field Supervisor at the Salt Lake City address given above. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John L. England, Botanist, at the Salt Lake City address and telephone number given above.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's (Service) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal Agencies also will take these comments into account in the course of implementing approved recovery plans

The autumn buttercup was listed under the Act as an endangered species on July 21, 1989 (50 FR 33734). As recently as 1989 the known population of the species was less than 20 individuals and the species is currently considered to be on the verge of extinction. The species is apparently threatened by habitat degradation and alteration resulting from cultivation and grazing practices. The species' entire known habitat is on land owned by The Nature Conservancy, which manages the habitat with the primary objective of preserving the species.

The primary goal of the recovery plan is to prevent the species' extinction. Given the species' vulnerability and the scarcity of suitable habitat, it is doubtful that the species can be recovered sufficiently in the foreseeable future to the point that downlisting or delisting can be considered.

Recovery efforts will focus on maintaining the current population and its habitat, conducting inventories of suitable habitat for additional populations, and locating sites for the potential introduction and establishment of new populations. Additional recovery efforts will focus on conducting research to determine the biological and ecological requirements of the species and on completing minimum viable population studies to develop future recovery criteria.

Public Comments Solicited

The Service solicits written comments on the Draft Autumn Buttercup Recovery Plan described above. All comments received by the date specified above will be considered prior to approval of the Recovery Plan.

Authority: The authority for this action is sec. 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: March 8, 1991.

Galen L. Buterbaugh,

Regional Director.

[FR Doc. 91-6359 Filed 3-15-91; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Docket No. 40471]

Agribusiness Shippers Group, Petition for Declaratory Order, Delinking of Rate Changes From the RCAF-RCCR Process; Decision

AGENCY: Interstate Commerce Commission

ACTION: Request for notice of intent to participate and extension of time to file comments.

SUMMARY: The Commission is requiring notice of intent to participate in this proceeding in order to establish a service list. The dates for filing substantive comments are extended.

DATES: Notices of intent to participate are due April 1, 1991. Initial comments are due April 22, 1991. Reply comments are due May 6, 1991.

ADDRESSES: Send an original and 10 copies to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275-7354, Robert C. Hasek (202) 275-0938, TDD for hearing impaired (202) 275-1721.

SUPPLEMENTARY INFORMATION: A decision requesting comments and replies on the effect of delinking of railroad rates from the rail cost adjustment factor of 49 U.S.C. 10707a was served on January 25, 1991. On February 11, 1991, the Union Pacific Railroad Company petitioned the agency to establish a service list. On March 5, 1991, the Association of American Railroads petitioned to extend the deadline for filing comments. Both requests are reasonable and will be printed.

Anyone intending to participate in this proceeding should file a Notice of Intent to Participate with the Commission on or before April 1, 1991. The Commission will then prepare and issue a service list, indicating the parties on whom all pleadings should be served. The time for filing initial and reply comments is extended to April 22 and May 6, 1991, respectively.

To obtain a copy of the January 25, 1991 decision write to, call or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289-4357/4359, (assistance for the hearing impaired is available through TDD services (202) 275-1721).

This action will not significantly affect either the quality of the human environment or conservation of energy resources. This decision will not have a significant economic impact on a substantial number of small entities.

It is ordered:

1. Notices of intent to participate are due April 1, 1991.
2. Comments are due April 22, 1991.
3. Reply comments are due May 6, 1991.
4. A copy of each comment and reply statement must be served on all parties

appearing on the service list that will be issued shortly after the notices of intent to participate are received.

Decided: March 12, 1991.

By the Commission, Edward J. Philbin, Chairman.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-6312 Filed 3-15-91; 8:45 am]

BILLING CODE 7035-01-M

(Ex Parte No. 388 (Sub-No. 3))

Interstate Rail Rate Authority; CO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional recertification.

SUMMARY: The State of Colorado has filed its application for recertification with the Commission. Pursuant to State Intrastate Rail Rate Authority, 5 I.C.C.2d 680, 685 (1989), the Commission provisionally recertifies the State of Colorado to regulate intrastate rail rates, classifications, rules and practices. After completing its review, the Commission will issue a decision approving recertification or taking other appropriate action.

DATES: This provisional recertification will be effective on March 18, 1991.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245, (TDD for hearing impaired: (202) 275-1721).

Decided: March 11, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-6310 Filed 3-15-91; 8:45 am]

BILLING CODE 7035-01-M

(Ex Parte No. 388 (Sub-No. 22))

Intrastate Rail Rate Authority; NM

AGENCY: Interstate Commerce Commission.

ACTION: Extension of provisional recertification.

SUMMARY: By decision served March 13, 1990, the Commission granted 180-day provisional recertification for New Mexico, through its State Corporation Commission, to regulate intrastate rail rates, practices, and procedures pending filing of its application for recertification pursuant to State Intrastate Rail Rate Authority, 5 I.C.C.2d 680 (1989). On September 13, 1990, the Commission extended the provisional recertification for another 180-days. Pursuant to a request from the State, the Commission

grants another extension so that New Mexico can complete modifications of its procedures and prepare an application for recertification.

DATES: New Mexico's provisional recertification is extended for 180 days from March 18, 1991.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired: (202) 275-1721).

Decided: March 7, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-6311 Filed 3-15-91; 8:45 am]

BILLING CODE 7035-01-M

[F.D. 27590 (Sub-No. 1)]

Trailer Train Co. et al.—Pooling of Car Service with Respect to Flatcars

March 12, 1991.

In a decision served in the above captioned docket on June 26, 1989, the Commission approved continuation of Trailer Train's pooling activities, subject to certain limitations, for a period of five years. *Trailer Train Company Et Al.—Pooling of Car Service with Respect to Flatcars*, 5 I.C.C.2d 552 (1989). The Commission also directed Trailer Train to submit certain data annually to the Office of Compliance and Consumer Assistance (OCCA), which has been directed to monitor Trailer Train's compliance with our decision during the five year term approved there.

OCCA has completed its monitoring activities for 1990 and reported to the Commission as required by our decision. We do not believe that any further action by the Commission is required at this time. OCCA will continue to carry out its monitoring responsibilities under our earlier decision.

By the Commission, Edward J. Philbin, Chairman.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-6314 Filed 3-15-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 330X)]

Burlington Northern Railroad Company—Abandonment Exemption—in Wadena County, MN; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 1.00-mile line of railroad between

mileposts 54.44 and 55.44, in Wadena, Wadena County, MN.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 14, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),² and trail use/rail banking statements under 49 CFR 1152.29 must be filed by March 25, 1991.³ Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by April 4, 1991, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Sarah J. Whitley, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

¹ A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

² See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

³ The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by March 20, 1991. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: March 12, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-6313 Filed 3-15-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-347X]

Florida West Coast Railroad Co.; Abandonment Exemption in Dixie County, FL

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 3.7-mile line of railroad between milepost 793.0, at Shamrock, and milepost 796.7, at Cross City, in Dixie County, FL.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected

employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 17, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),² and trail use/rail banking statements under 49 CFR 1152.29 must be filed by March 28, 1991.³ Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by April 8, 1991, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, Suite 1107, 1700 K Street, NW., Washington, DC 20006.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by March 22, 1991. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: March 5, 1991.

¹ A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

² See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

³ The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

By the Commission, David M. Konschnik,
Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-6229 Filed 3-15-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Judgment in Action for Recovery of Cost Claim Under CERCLA

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a Consent Decree in *United States v. J.V. Peters and Co., Inc. et al.*, (N.D. Ohio), Civil Action No. 85-1966 was lodged with the United States District Court for the Northern District of Ohio on March 6, 1991. The Consent Decree provides for the payment of \$364,000.00 in response costs from defendants and third-party defendants in this action, which was brought pursuant to section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, 42 U.S.C. 9607, for the recovery of costs incurred by the United States in connection with the J.V. Peters site located in Middlefield Township, Ohio.

The Department of Justice will receive, for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20503 and should refer to *United States v. J.V. Peters and Co., Inc. et al.*, D.O.J. Ref. No. 90-11-3-85.

The Consent Decree may be examined at the Office of the United States Attorney, Northern District of Ohio, 1404 East Ninth Street, Cleveland, Ohio 44114; the Region 5 Office of the U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1333 F Street, suite 600, NW., Washington, DC 20004, telephone number (202) 347-2072. In requesting a copy, please enclose a check in the amount of \$9.25 (25 cents

per page reproduction charge) payable to "Consent Decree Library."

Richard B. Stewart,

Assistant Attorney General, Environment and
Natural Resources Division.

[FR Doc. 91-6286 Filed 3-15-91; 8:45 am]

BILLING CODE 4410-01-M

MERIT SYSTEMS PROTECTION BOARD

Call for Riders for the U.S. Merit Systems Protection Board Publication, "Questions & Answers About Appeals"

AGENCY: U.S. Merit Systems Protection Board.

ACTION: Notice of call for riders for the Board's publication, "Questions & Answers About Appeals."

SUMMARY: The purpose of this notice is to inform Federal departments and agencies that the U.S. Merit Systems Protection Board's information publication, "Questions & Answers About Appeals," will be available on riders to the Government Printing Office. Departments and agencies may order this publication by riding the Board's requisition number 1-00108.

DATES: Agency requisitions must be received by the Government Printing Office on or before May 17, 1991.

ADDRESSES: Interested departments and agencies should send requisitions from their Washington, DC, headquarters office authorized to procure printing to the Government Printing Office, Requisition Section, room C-836, Washington, DC 20401. The estimated cost is approximately 50 cents per copy.

FOR FURTHER INFORMATION CALL: Duward Sumner, Office of Management Analysis, U.S. Merit System Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419, 202-653-8892.

SUPPLEMENTARY INFORMATION: This publication contains general information on the rights of Federal employees to appeal certain personnel actions to the Board, information on how to file an appeal with the Board, and other procedural information regarding the appeals process. The publication is written in a question and answer format to enhance understanding.

In making this publication available, the Board intends to provide general information about appeal rights and procedures in a convenient, readable format for Federal employees and others with an interest in the Board's activities. The publication is not all-inclusive, nor is it regulatory in nature. The

availability of this publication does not relieve an agency of its obligation, under the Board's regulations at 5 CFR 1201.21, to provide an employee against whom an action appealable to the Board is taken with notice of the employee's appeal rights and the other information specified in the Board's regulations.

This requisition is for a reprint of the latest (October 1990) edition of the publication. The Board is ordering this reprinting because numerous agencies have advised that they were unable to respond to the Board's previous call for agency riders, published in the *Federal Register* on August 22, 1990, before the October 22, 1990, deadline. Because the Board is unable to fill large volume orders for this publication, agencies are urged to take advantage of this additional opportunity to order copies sufficient to meet their needs.

Dated: March 12, 1991.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 91-6289 Filed 3-15-91; 8:45 am]

BILLING CODE 7400-01-M

THE NATIONAL EDUCATION GOALS PANEL

Meeting

AGENCY: The National Education Goals Panel.

ACTION: Notice of meeting.

SUMMARY: The National Education Goals Panel was established by a joint Statement between the President and the nation's governors dated July 31, 1990. The panel will determine how to measure and monitor progress toward achieving the National Education Goals and to report to the nation on progress toward the goals. Members of the National Education Goals Panel are six governors appointed by the Chairman of the National Governors Association, four senior Administration officials, and four Congressional leaders. Governor Roy Romer of Colorado is the initial Chairman. This will be the Panel's fourth meeting.

TENTATIVE AGENDA ITEMS: The Panel will receive reports from conveners of six resource groups which have been asked to provide initial thinking on ways to measure and monitor the national education goals.

DATES: The meeting is scheduled for Monday, March 25, 1991, from 1:30 to 4 p.m.

ADDRESSES: The meeting will be held at the Hyatt Regency Washington on

Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC.

ATTENDANCE: Please contact Charles Kolb at the White House Office of Policy Development to indicate attendance or for further information. The phone number is (202) 456-6515.

Dated: March 11, 1991.

Roger B. Porter,

Assistant to the President for Economic and Domestic Policy.

[FR Doc. 91-6351 Filed 3-15-91; 8:45 am]

BILLING CODE 2701-31-M

NATIONAL SCIENCE FOUNDATION

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public. Interested persons are invited to submit comments by April 12, 1991. Comments may be submitted to:

(1) *Agency Clearance Officer:* Herman G. Fleming, (202) 357-7335. Written comments to: Division of Personnel and Management, National Science Foundation, 1800 G St. NW., Washington, DC 20550 and to;

(2) *OMB Desk Officer:* Written comments to: Office of Information and Regulatory Affairs, Attn: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, room 3208, NEOB, Washington, DC 20503.

Title: Higher Education Surveys (HES) System.

Affected Public: Non-profit institutions.

Responses/Burden Hours: 400 respondents, 6 responses each; 1 hour and 30 minutes each response.

Abstract: Panel surveys are responsive to a variety of policy issues. Topics are not predetermined and survey instruments are designed specifically for each survey. This and other surveys provide information for program management, serve research objectives and satisfy general information needs not met through existing information sources.

Dated: March 11, 1991.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 91-6283 Filed 3-15-91; 8:45 am]

BILLING CODE 7555-01-M

Permit Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit issued under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On January 30, 1991, the National Science Foundation published a notice in the *Federal Register* of permit applications received. A permit was issued to the following individual on March 7, 1991; Jeannette E. Zamon.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 91-6328 Filed 3-15-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste, Revision; Meeting

The *Federal Register* notice previously published on March 6, 1991 (56 FR 9372) announcing the 29th Advisory Committee on Nuclear Waste (ACNW) meeting scheduled for March 20-22, 1991, room P-110, 7920 Norfolk Avenue, Bethesda, MD, 8:30 a.m. until 5 p.m. has been revised to include the following topics for discussion. All other items pertaining to this open meeting remain the same as previously published.

A. Review and comment on an NRC staff Technical Position regarding Regulatory Considerations in the Design and Construction of the Exploratory Shaft Facility.

B. Meeting with the low-level waste coordinator from Massachusetts to hear about the development of the state's strategic plan for LLW disposal.

C. Meeting with the Commissioners to discuss items of mutual interest.

D. Response to a recent Staff Requirements Memorandum related to revising 10 CFR part 61 relative to attention to leaching resistance of the low-level waste form.

E. Briefing on NRC oversight and monitoring of existing low-level waste disposal facilities through the Agreement State programs.

F. The Committee will discuss ongoing projects concerning human intrusion and geoscience models for a high-level waste repository.

G. The Committee will discuss anticipated and proposed Committee

activities, future meeting agenda, administrative, and organizational matters, as appropriate. The members will also discuss matters and specific issues which were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of the participation in ACNW meetings were published in the *Federal Register* on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACNW Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: March 12, 1991.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 91-6373 Filed 3-15-91; 8:45 am]

BILLING CODE 7590-01-M

New Standard Technical Specifications (Draft); Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: The Nuclear Regulatory Commission (NRC) has published five DRAFT reports documenting the results of the NRC staff review of new Standard Technical Specifications (STS) proposed by vendor-specific utility owners groups.

These new STS were developed based on the criteria in the interim Commission Policy Statement on Technical Specification Improvements for Nuclear Power Reactors, dated February 8, 1987. The new STS will be used as bases for individual nuclear power plant owners to develop improved plant-specific technical specifications.

The original Notice of Availability was issued allowing a 30 working-day comment period. Subsequently, the NRC staff received a request to extend the comment period. The NRC staff reviewed the request, determined that it had merit, and is extending the comment period until May 31, 1991. Following the comment period, the NRC staff will analyze comments received, finalize the new STS, and issue them for plant-specific implementation.

Comments should be submitted in accordance with the following guidance: Mark, in pen and ink, the exact working of proposed changes on copies of all the affected pages of the draft NUREG. Number each proposed change. Provide the technical justification for each proposed change separately, cross referenced to the applicable proposed change on the marked up pages.

DATES: Submit comments by May 31, 1991. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received by this date.

ADDRESSES: Submit written comments to: David L. Meyer, Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Hand deliver comments to: 7920 Norfolk Avenue, Bethesda, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

FOR FURTHER INFORMATION CONTACT: Mark Reinhart, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492-3139.

A free single copy of each of the following draft NUREGs may be requested by those considering public comment by writing to the Office of Information Resources Management, Distribution Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy is also available for inspection or copying for a fee in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

The five drafts of the new Standard Technical Specifications, containing 3 volumes each, are as follows:

NUREG-1430, "Standard Technical Specifications, Babcock and Wilcox Plants."

NUREG-1431, "Standard Technical Specifications, Westinghouse Plants."

NUREG-1432, "Standard Technical Specifications, Combustion Engineering Plants."

NUREG-1433, "Standard Technical Specifications, General Electric Plants, BWR/4."

NUREG-1434, "Standard Technical Specifications, General Electric Plants, BWR/6."

Dated at Rockville, Maryland, this 12th day of March, 1991.

Jose A. Calvo,

Chief, Technical Specifications Branch,
Division of Operational Events Assessment,
Office of Nuclear Reactor Regulation.

[FR Doc. 91-6375 Filed 3-15-91; 8:45 am]

BILLING CODE 7590-01-M

[DOCKET NO. 50-423]

Northeast Nuclear Energy Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 60 to Facility Operating License No. NPF-49 issued to Northeast Nuclear Energy Company (the licensee) which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit 3, located in New London County, Connecticut. The amendment is effective as of the date of issuance.

The amendment modified the Technical Specifications to support refueling and Cycle 4 operation using the VANTAGE 5 Hybrid fuel design. The amendment also removes cycle-specific restrictions for discharge of nuclear fuel to the spent fuel pool. The amendment permits removal of the autoclosure interlock from the residual heat removal system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the *Federal Register* on January 10, 1991 (56 FR 1036). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated October 25, 1990, as supplemented February 11, 1991 and application dated November 1, 1990, as supplemented November 2, November 30, December 4, 1990, and February 15 and 22, 1991, (2) Amendment No. 60 to License No. NPF-49, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, attention: Director, Division of Reactor Projects—I/II.

Dated at Rockville, Maryland this 11th day of March 1991.

For the Nuclear Regulatory Commission.
David H. Jaffe,
Project Manager, Project Directorate I-4,
Division of Reactor Projects—I/II, Office of
Nuclear Reactor Regulation.

[FR Doc. 91-6374 Filed 3-15-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Clearance Submitted to OMB

AGENCY: Office of Personnel
Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of an information collection. RI 38-107, Verification of Who is Getting Payments, is used to verify that the person entitled to receive payments is indeed receiving the monies payable. Failure to collect this information would cause OPM to pay monies absent the assurance of a correct payee.

The number of respondents for RI 38-107 is 1400; we estimate it takes 10 minutes to fill out the form. The annual burden is 233 hours.

For copies of this proposal, call C. Ronald Trueworthy on (202) 606-2261.

DATES: Comments on this proposal should be received on or before April 17, 1991.

ADDRESSES: Send or deliver comments to—

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E. Street, NW., room 6410, Washington, DC 20415.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Ronald Rabbu, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91-6382 Filed 3-15-91; 8:45 am]

BILLING CODE 5325-01-M

POSTAL RATE COMMISSION

Visit to Postal Facility March 12, 1991.

Notice is hereby given that Commission advisory personnel will visit the Merrifield Sectional Center Facility on Wednesday, March 20, 1991. A report of the visit will be on file in the Docket Room. If anyone would like further information on the visit please contact Gerald Cerasale at (202) 789-8871.

Charles L. Clapp,

Secretary.

[FR Doc. 91-6280 Filed 3-15-91; 8:45 am]

BILLING CODE 7710-FW-M

RESOLUTION TRUST CORPORATION

Policy Statement and Procedures for RTC Employees Interaction with Public Officials

SUMMARY: Notice is hereby given that on February 5, 1991, the Resolution Trust Corporation revised its existing Policy Statement and Procedures, adopted April 3, 1990, for responding to inquiries and requests regarding activities of the RTC made by or on behalf of public officials, including measures to avoid political favoritism and undue influence. On May 18, 1990 (55 FR 20673), the RTC issued the Policy Statement and

Procedures for comment with a view towards possible revision or modification at a later date. The public comment period has expired and, based on a review and analysis of the comment received, the RTC believes that the provisions of the Policy Statement and Procedures should remain essentially unchanged except for the inclusion of personnel of the General Accounting Office (GAO) as excluded personnel under the definition of "Public Official", when GAO personnel are acting in their official capacities.

EFFECTIVE DATE: The revised Policy Statement and Procedures is effective April 17, 1991.

ADDRESSES: Copies of the policy can be obtained by writing to the Public Reading Room, Resolution Trust Corporation, 801 17th Street, NW., Washington, DC 20434. Requests for copies may also be made by calling the Public Reading Room (202) 416-6940.

FOR FURTHER INFORMATION CONTACT:

Lisa Tate, Assistant to the Director, Office of Legislative Affairs (202) 416-7313.

Dated at Washington, DC this 12th day of March, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 91-6308 Filed 3-15-91; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Gulf Shores Plantation located in Gulf Shores, Baldwin County, Alabama is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 17, 1991.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Glenn Blumenthal, Resolution Trust Corporation, P.O. Box 1500, Valley Forge, PA 19482-1500, (215) 631-4781, Fax (215) 650-8558.

SUPPLEMENTARY INFORMATION: The property is located within Gulf Shores Plantation and includes an area located within Gulf Shores Plantation's western boundary on the north and south sides

of Fort Morgan Road in Gulf Shores, Baldwin County, Alabama. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property is located on Fort Morgan peninsula within the Mobile Point Unit (Q01) of the Coastal Barrier Resources System. Wetlands occur on approximately 20% of the property and coastal dunes are also present. The northern portion of the property bordering on Mobile Bay is within the authorized acquisition boundary of the Bon Secour National Wildlife Refuge. The southern portion of the property bordering on the Gulf of Mexico contains important sea turtle nesting sites as well as designated critical habitat for the Alabama Beach Mouse.

Property size: 251.02 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 17, 1991 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organization" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 17, 1991 to Glenn Blumenthal at the above address and in the following form:

Notice of Serious Interest

Re: Gulf Shores Plantation Federal Register Publication Date: _____

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (name/address/telephone/fax).

Dated: March 12, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91-6307 Filed 3-15-91; 8:45 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Information Collection Activities under OMB Review

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, DC 20549.

Revision: SEC File No. 270-3, Regulation S-X.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (Commission of SEC) has submitted for approval a request for public comments on whether the Commission should issue an interpretive release recognizing accounting rules regarding "loan splitting" that currently are being proposed by the Federal Financial Institutions Examination Council (FFIEC) as an acceptable alternative under generally accepted accounting principles (GAAP) and, accordingly, may be used in preparing financial statements filed with the Commission.

Information collected and records prepared pursuant to the Commission's possible interpretation would focus on compliance with generally accepted accounting principles (GAAP).

There generally will be a response to the information and record collection request once each year.

The potential respondents primarily may be entities subject to regulation by the Federal banking agencies, as those agencies will require compliance with any new FFIEC rules adopted in this area, however, respondents may include all entities that file financial statements with the Commission pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Public Utility Holding Company Act of 1935. It has been estimated that there will not be an increase in burden hours as the new FFIEC rules would be only permissible alternative under GAAP, and registrants could continue to use current methods.

The estimated average burden hours for compliance with Regulation S-X (OMB Number 3235-0009) and for Commission forms that require disclosure of financial statements prepared in accordance with Regulation S-X, would remain unchanged.

The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a

representative survey or study of the costs of SEC rules and forms. Direct any comments concerning the accuracy of the estimated average burden hours for compliance to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street, NW., Washington, DC 20549 and to Gary Waxman at the address listed below.

Submit general comments to OMB Desk Officer: Gary Waxman (202) 395-7430, Office of Management and Budget, Paperwork Reduction Project 3235-0009, Office of Information and Regulatory Affairs, Room 3208, NEOB, Washington, DC 20503.

Dated: March 13, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-6385 Filed 3-15-91; 8:45 am]

BILLING CODE 8010-01-M

[Release Nos. 33-6886; 34-28969; File No. S7-5-91]

Request for Public Comment on the Acceptability in Financial Statements of an Accounting Standard Permitting the Return of a Nonaccrual Loan to Accrual Status after a Partial Charge-Off

AGENCY: Securities and Exchange Commission.

ACTION: Request for public comment.

SUMMARY: The Federal Financial Institutions Examination Council (the "FFIEC" or "Council") is proposing to establish for purposes of regulatory reports criteria under which a depository institution may return a nonaccrual loan to accrual status even though full recovery of its contractual principal amount may not be expected. The Securities and Exchange Commission (the "Commission") is seeking comment on various issues relevant to its consideration of whether financial statements of depository institutions applying this accounting method would be acceptable in filings with the Commission in the event the proposal is adopted by the FFIEC. After evaluating the comments received in response to this release and the FFIEC's proposal, the Commission may issue an Interpretive Release reflecting its conclusions, to be included in its Codification of Financial Reporting Policies.

DATES: Comments should be received on or before May 2, 1991.

ADDRESSES: All comments should be submitted in triplicate and addressed to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Comment letters should refer to File No. S7-5-91. All comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Robert A. Bayless, Office of the Chief Accountant, Division of Corporation Finance at (202) 272-2553; Gregory W. Norwood or Douglas N. Barton, Office of the Chief Accountant at (202) 272-2130; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Background

Banks and thrifts are required to file quarterly "Reports of Condition and Income" and "Thrift Financial Reports" (referred to collectively as "Call Reports") with their respective regulators (the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision; collectively, the "Agencies"). Regulatory reporting guidelines developed by the Agencies for purposes of the Call Report often influence accounting practices used by depository institutions in other financial reports that are publicly released. Where these regulatory guidelines are not inconsistent with generally accepted accounting practices (GAAP), the Commission also has accepted their use in financial statements included in filings by bank and thrift holding companies.

Accounting policies governing the accrual of income on loans held by depository institutions have been shaped by regulatory guidelines established by the Agencies. Interest earned on a loan but not yet received from the borrower ordinarily may be recognized, or "accrued," in the financial statements of a depository institution. However, if specified regulatory criteria are triggered, a loan must be placed on nonaccrual status. Pursuant to Call Report instructions, a depository institution may not return a nonaccrual loan to an accrual status unless the institution expects full repayment of principal and interest and either (1) none of the loan's principal and interest is due and unpaid, or (2) the loan has become well secured and is in the process of collection.

The requirements for returning a loan to accrual status have been interpreted to apply to the *contractual* principal of a loan. However, the Federal Financial Institutions Examination Council (the

"FFIEC" or "Council")¹ is presently proposing to establish criteria under which depository institutions may return a nonaccrual loan to accrual status even though the full recovery of its contractual principal may not be expected.

The FFIEC is proposing that a qualifying loan may be returned to accrual status if its recorded amount is reduced by a charge-off to an amount which the lender expects to fully collect, based on prudent underwriting standards and including interest at a market rate. Loans intended to qualify for this accounting method are primarily those which are collateral-dependent, although other loans where the primary source of repayment is a dedicated and readily determinable stream of cash flows may also be eligible. Appendix A of this release contains the FFIEC's proposed Call Report instructions.² If adopted, banks and thrifts could elect to use this accounting method in their Call Reports, but would not be required to do so.

The Securities and Exchange Commission (the "Commission") is considering whether financial statements of depository institutions applying this accounting method would be acceptable in filings with the Commission in the event the proposal is adopted by the FFIEC. The FFIEC has advised the Commission that the proposal will generally lead to more conservative loss recognition than under current acceptable methods, can enhance the quality of information provided to investors of financial institutions, will provide financial institutions more flexibility in dealing with problem loans, and can be adequately monitored during the supervisory process to prevent its abuse. The Commission believes that the proposed method, if properly applied and combined with adequate disclosure, could enhance the quality and conservativeness of financial reporting. However, the conformance of the method with GAAP is not clear under existing authoritative literature. Moreover, assuming the method itself is not inconsistent with GAAP, application of the method selectively to some but not all loans meeting the qualifying criteria may depart from acceptable accounting practice.

¹ The FFIEC is responsible for developing uniform reporting systems for federally supervised financial institutions pursuant to 12 U.S.C. 3305.

² Copies of the FFIEC proposal may be obtained from Robert J. Lawrence, Executive Secretary, FFIEC, 1776 G Street, NW., Suite 850B, Washington, DC 20006.

Comment is sought on these issues and other aspects of the FFIEC's proposal as it may affect the financial reports of public bank and thrift holding companies. After evaluating the comments received in response to both this release and the contemporaneous publication by the FFIEC of its proposal, the Commission may issue an Interpretive Release reflecting its conclusions, to be included in its Codification of Financial Reporting Policies.

II. Conformance with GAAP

Call Report instructions have been interpreted to prohibit the return of a nonaccrual loan to accrual status unless none of the loan's principal and interest is due and unpaid or the loan becomes well secured and in the process of collection. In contrast, the FFIEC proposal would permit interest accrual on a qualifying loan when its recorded amount has been reduced by a partial charge-off to a level sufficient to enable the lender to expect full collection of the remaining recorded amount at a market rate of interest. This proposed standard views the charge-off as establishing a new "principal" balance for accounting purposes, permitting interest accrual if collection in full of this new recorded amount plus interest at a market rate is expected. The following describes accounting literature relating to interest accrual and loan charge-off.

Existing authoritative accounting literature regarding the accrual of interest income on loans is general in nature. The American Institute of Certified Public Accountants (AICPA) Industry Audit Guide, "Audits of Banks" (the "Bank Guide") states:

Many banks suspend accrual of interest income on loans when the payment of interest has become delinquent or collection of the principal has become doubtful. Such an action is prudent and appropriate. Regulatory reporting guidelines for nonaccrual loans have been established by federal supervisory agencies.³

More detailed guidance is provided by AICPA Practice Bulletin (PB) 5, "Income Recognition on Loans to Financially Troubled Countries." With respect to loans addressed by that bulletin, income accrual is prohibited unless, among other criteria, the loans become current as to principal and interest payments.

General guidance concerning the recognition and measurement of loan losses is provided in the Bank Guide and in Financial Accounting Standards Board (FASB) Statement No. 5,

³ AICPA, Industry Audit Guide "Audits of Banks," page 51 (2d ed. 1984).

Accounting for Contingencies (SFAS 5). An institution must maintain an allowance for loan losses that is adequate to " * * * cover estimated losses inherent in the loan portfolio."⁴ Increases in the allowance are effected by charges against income, called "provisions." An estimated loan loss and related increase in the allowance must be provided for in the period when the loss becomes probable.⁵ The Bank Guide states that "loans should be written off when they are deemed uncollectible."⁶ This "charge-off" reduces the loan balance and the allowance for losses. If the remaining allowance is sufficient to cover all losses inherent in the remaining portfolio, income is not affected by a charge-off.

Under the FFIEC proposal, a partial charge-off of a loan must be recorded prior to returning it to accrual status. The charge-off must result in a remaining recorded amount equal to the present value of expected cash flows discounted at a market interest rate and no greater than that which would satisfy prudent underwriting standards for a new loan. Recognizing charge-offs of this nature for probable loan impairment should be considered in the context of historical charge-off and loss provision practices of reporting companies. Methods used to implement SFAS 5 vary among, and within, depository institutions. Loss provisions and charge-offs are currently estimated using both discounted and undiscounted methods. Further, the partial charge-off required by the proposed method should be examined for consistency with SFAS 5 impairment recognition principles, which indicates that the measure of the loss is the difference between a loan's "net realizable value" (NRV) and its recorded amount.⁷

There is a question whether the FFIEC proposal's discounted method is consistent with accounting guidance in SFAS 15, Accounting by Debtors and Creditors for Troubled Debt Restructurings, governing the estimation of loss when recording a formally restructured troubled loan. Generally, a

⁴ Bank Guide, *supra* note 3, page 61.

⁵ FASB, Statement of Financial Accounting Standards No. 5, *Accounting for Contingencies* (March 1975), as amended, paragraphs 8, 22, & 23.

⁶ Bank Guide, *supra* note 3, at 62.

⁷ NRV is not defined. On February 13, 1991, the FASB decided to accelerate part of its financial instruments project to address whether and, if so, in what circumstances creditors should measure impairment of a loan based on the present (i.e., discounted) value of expected cash flows related to the loan. The project will apply to all entities, not just depository institutions, and will include collateralized loans with collectibility concerns.

restructuring involving only a modification of terms results in loss recognition only if the future estimated gross (undiscounted) cash flows are less than the recorded amount of the receivable.⁸

Finally, the proposed method should be examined with respect to guidance applicable in circumstances where in-substance foreclosure accounting⁹ would be appropriate. If the debtor's ability to rebuild equity is in doubt, among other criteria, a loan must be accounted for as if formally foreclosed. In that case, the loan's recorded amount is reduced to the fair value of the underlying collateral and is reported on the balance sheet as a foreclosed asset. The charge-off required by the proposed method may be indicative of a debtor's inability to rebuild equity.

In view of the limited authoritative guidance on the accounting for return of a loan to accrual status with a partial charge-off, the Commission requests comment in Section VII of this release regarding whether the proposed standard is consistent with GAAP. The Commission specifically seeks comment on whether the proposed standard is consistent with the guidance in SFAS 5, PB 5, SFAS 15, and any other relevant or analogous literature identified by respondents.

III. Consistency and Comparability

The Council's proposal would not require all depository institutions to adopt the proposed accounting practice. Moreover, institutions that do adopt this practice may choose to apply it only to selected loans, while continuing to use their customary practices for other similar loans. Finally, an institution applying the method to some loans in one accounting period may, in a subsequent period, elect not to apply the method to additional loans.

Customarily, a registrant adopting a new accounting principle must apply it consistently in all similar circumstances. Consistency among companies, between periods, and for similar economic phenomena is considered to be a desirable objective of financial reporting, which seeks to provide capital markets with useful information about individual companies necessary to compare their performance from period to period and against investment alternatives. Lack of consistency may adversely affect comparability.

An entity's application of different accounting methods to substantially similar assets also may undermine the credibility of financial statements because it may permit income or loss management through selective application in a manner that inaccurately portrays performance. An institution may select loans for application of this accounting method based primarily on the ultimate impact on income. At the same time, an institution could choose to carry similarly impaired loans at higher net amounts on the balance sheet. For example, the decision to apply the proposed method to a qualifying loan could be made on the basis of whether or not it would result in a requirement for an additional loss provision. If the proposed method is selectively applied only to those loans for which a sufficiently large loss provision was contemplated in the original establishment of the allowance, no additional charges to income would be required and income may increase as the loans are returned to accrual status. At the same time, application of the method to other similarly impaired loans would require additional charges to income (i.e., because the institution had measured the contemplated losses with respect to these loans on an undiscounted basis). The election not to apply this method to those loans enables the institution to avoid the charge to income and continue to carry the loans at higher net amounts on the balance sheet.

Similarly, an institution may attempt to influence an investor's assessment of trends in its performance by applying the proposed standard from period to period in a discretionary manner that, by design, yields conservative results when earnings are high, but supplements lower earnings in later periods.

Application of the proposed method by depository institutions would be subject to supervisory review during the examination process by the Agencies. The Commission observes that careful and effective oversight by the Agencies of the use of the proposed standard can be useful in ensuring that income manipulation and other potential abuses do not occur. However, effectiveness of the examination process may be weakened if there is not any standard or requirement of uniform application, since selectivity in application would be expressly permissible.

Because of concerns regarding the effect on comparability and the possibility of income management and other abuses, the Commission is soliciting comment in Section VII or

whether the proposed method, if adopted by an institution, must be applied to all loans that meet the criteria specified in the rule. The Commission is also seeking comment on whether there are means, such as disclosure, auditing, or regulatory oversight, sufficient to protect against abuse if selectivity is permitted. In particular, comment is sought on whether any specific implementation or audit guidelines would be necessary to ensure that the examination process can provide effective oversight of the application of the proposed standard. Comment is also solicited on whether, if found to be an acceptable application of GAAP, the proposed standard should be required for all depository institutions.

IV. Reliability

Implementation of the proposed method by an institution will involve significant estimates and judgments. Examples include estimating the probability of the amount and timing of expected cash flows, selecting an interest rate that approximates a market rate, and determining the extent of the partial charge-off necessary to produce a loan that meets prudent underwriting standards. If the proposed method were found to conform with GAAP conceptually, it would have to be examined to determine whether it could be practicably implemented by preparers, reliably audited by independent accountants, and effectively overseen by supervisory agencies. The Commission seeks comment regarding whether the scope and level of detail in the proposed Call Report instruction is sufficient to facilitate reliable application and monitoring of the practice.

V. Disclosure Requirements

If the proposed accounting practice is adopted by entities required to file with the Commission, expanded disclosure would be necessary to communicate all material and relevant information to investors. The Commission would expect companies to include in their financial statements a thorough description of the accounting policy governing the circumstances under which a nonaccrual loan may return to accrual status even though the full recovery of contractual principal may not be expected. If selective application is permitted, the Commission would expect disclosures to fully describe the company's method of loan selection.

The Commission would expect that loans accounted for under the proposed standard would be specifically highlighted in financial statements filed

⁸ FASB, Statement of Financial Accounting Standards No. 15, *Accounting by Debtors and Creditors for Troubled Debt Restructurings* (June 1977), as amended, paragraphs 30-32.

⁹ "Accounting for Loan Losses by Registrants Engaged in Lending Activities", Financial Reporting Release No. 28 (December 1, 1986)

with the Commission, including a reconciliation of "partially charged-off accruing loans" for each period a statement of operations is presented. The reconciling items would include:

- (a) The aggregate amount of partially charged-off loans placed on accrual status;
- (b) The aggregate amount of partially charged-off loans returned to nonaccrual status;
- (c) Aggregate principal payments received on these loans; and
- (d) Aggregate loans paid off or otherwise formally restructured with the borrower.

Further, the Commission would expect that the financial statement note containing the reconciliation of the allowance for loan losses would specifically identify the amount of charge-offs taken each period to initially qualify these loans for accrual status, as well as any additional charge-offs and recoveries on all loans so classified. Interest income recognized on partially charged-off accruing loans during each period also would be disclosed.

Disclosures under Industry Guide 3 would be expanded to reflect adoption of the proposed method. The disclosures required for nonaccrual loans pursuant to section III(C)(1), "Nonaccrual, Past Due and Restructured Loans," would identify separately loans which were partially charged-off to the level necessary for accrual status but which have been subsequently returned to nonaccrual status. The disclosures required by section IV(A), "Summary of Loan Loss Experience," would be modified, as necessary, to identify charge-offs or recoveries that relate to partially charged-off accruing loans.

If the accounting practice is used in filings, the Commission would expect companies to ensure that "Management's Discussion and Analysis of Financial Condition and Results of Operations," as required by Item 303 of Regulation S-K,¹⁰ enables a reader to distinguish between the effect of the accounting policy and other factors affecting operations and loan quality. To the extent material, companies should analyze the effect of the accounting policy on rates of loan charge-offs and recoveries, net interest margin, provisions for loan losses, and the ratios of the allowance for loan losses to net loans and nonaccrual loans. For example, if the adoption of the accounting policy results in greater charges against the allowance for loan losses than were contemplated for these loans when the allowance was last

evaluated, the effects should be disclosed.

The disclosures outlined above are substantially similar to those which are prescribed by the FFIEC's proposal for institutions reporting to the Agencies. However, the Commission would also expect that loans which have been partially charged off and placed on accrual status should continue to be disclosed as such even if they return to performance levels consistent with their original contractual terms. Continued disclosure of these loans and related income and recoveries will enable investors to identify the extent to which current income is affected by loans accounted for in this manner. The Commission specifically requests comments on whether additional disclosures may be necessary to provide assurance that the policy is properly applied and all relevant and material information is included in financial reporting.

VI. Requirement for Preferability Letter from Independent Accountants

If a registrant changes its accounting policy governing the circumstances under which accrual status is permitted for a loan when recovery of the contractual principal may not be expected, this change should be reported as a change in accounting principle pursuant to APB Opinion No. 20, *Accounting Changes*.¹¹ Pursuant to Rule 10-01(b)(6) of Regulation S-X,¹² registrants are required to state the date of any material accounting change and the reasons for making it. A letter from the independent accountant indicating whether or not the change is to an alternative principle which is, in his or her judgment, preferable under the circumstances must be included as an exhibit to Form 10-Q pursuant to Item 601(b)(18) of Regulation S-K.¹³ If institutions are permitted to apply the method on a selective basis to qualifying loans, the independent accountant should specifically consider whether the means by which the institution selects qualifying loans for application of the method impacts the preferability determination. The auditor's report included in Form 10-K for the period in which such a change occurs would be expected to include a reference to the change in an explanatory paragraph.

VII. Request for Public Comment

Any interested persons wishing to submit written comments on the

¹¹ APB, Opinion No. 20, *Accounting Changes* (1971).

¹² 17 CFR 210.10-01(b)(6).

¹³ 17 CFR 229.601(b)(18).

proposed method and its acceptability in filings with the Commission are requested to do so. In addition to questions discussed above, the Commission requests comment specifically on the following questions.

1. Is the method permitted under this proposed accounting standard an acceptable interpretation under existing GAAP? Specifically, commentators should consider addressing whether the proposed method is consistent with the following literature:

(a) Under SFAS 5, and the Industry Audit Guides, "Audits of Banks" and "Audits of Savings and Loan Associations," of the AICPA, is it acceptable for an institution to utilize both discounted and undiscounted measurement techniques? Is the use of both methods acceptable, particularly if the less conservative method is used for lower-quality loans that do not qualify for application of the proposed method?

(b) Is use of a market discount rate an acceptable interpretation of the AICPA Savings and Loan Audit Guide which requires reduction of proceeds at a rate equivalent to the cost of capital in determination of net realizable value? Can an institution use two discount rates for similar loans?

(c) Is the method consistent with SFAS 15, in which the gain or loss on restructuring is measured on an undiscounted basis?

(d) Is the method consistent with AICPA Practice Bulletin 5, which prohibits accrual of income unless, among other things, the loan becomes current as to principal and interest payments?

2. Should the proposed method be limited only to collateral-dependent loans? If not, are the proposed limitations set forth in the FFIEC proposal (i.e., loans where the primary source of repayment is a dedicated and readily determinable stream of cash flows) sufficiently clear to enable preparers, auditors and regulatory examiners to implement and monitor the method, or are other criteria necessary? For example, should the proposed method be required for a broader or narrower subset of loans?

3. Is it reasonable to believe that there will be loans meeting the requirements for the proposed method that will not also meet the criteria requiring in-substance foreclosure accounting?

4. Can existing GAAP be interpreted to permit selective or discretionary application of the proposed method by a depository institution to only certain of the loans within the defined scope? Further, would existing GAAP permit an institution to be able to elect to adopt or

forego this proposed method entirely? Are concerns regarding the potential for income manipulation and other abuses misplaced? Does the proposed disclosure, or would the collection of additional information in regulatory reports, alleviate the concerns arising from selective application?

(a) Are there specific implementation or audit guidelines necessary to ensure reliable application and effective oversight through the examination process?

(b) Would application of the proposed accounting standard to all qualifying loans, as presently defined in the proposal, present particular implementation problems or otherwise be impracticable? Would consistent application of the method be more feasible if the scope of loans which qualify for application of the accounting method were modified in some respect, and, if so, how? Would application to a subset of qualifying loans be acceptable if the method of loan selection were described and consistently applied?

5. Under what circumstances would the adoption of this proposed method represent a change to a preferable accounting principle under APB 20? Does the discretionary application aspect preclude, or make more difficult or otherwise impact the determination of whether the change is preferable?

6. The Commission believes that the proposed method, if properly applied and combined with adequate disclosure, could enhance the quality and conservativeness of financial reporting. Is this assessment justified?

VIII. Codification Update

The Commission is considering amending the "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) to:

Add a new section 401.09.e, entitled "Acceptability in Financial Statements of an Accounting Standard Permitting the Return of a Nonaccrual Loan to Accrual Status after a Partial Charge-off"

The Codification is a separate publication of the Commission. It will not be published in the Federal Register/Code of Federal Regulations.

* * * * *

By the Commission.

Dated: March 13, 1991.

Margaret H. McFarland,
Deputy Secretary.

Appendix A

(These proposed Call Report instructions were furnished to the Commission as of March 13, 1991.

Subsequent technical changes, if any, will be included in the final proposal by the FFIEC. Comments should be addressed to the proposal in its final form.)

Proposed Call Report Glossary Entry and TFR Instructions for Partially Charged-off Loans Accruing Interest at a Market Rate

General Instructions. The reporting treatment discussed herein is contemplated principally for collateral-dependent loans that have been placed on nonaccrual status. However, other loans for which the primary source of repayment is a dedicated and readily determinable stream of cash flows may qualify for this reporting treatment. Application of this reporting treatment to any such loans would be subject to supervisory review during the examination process.

Qualifying Criteria. Qualifying nonaccrual loans that have demonstrated substantial, but less than required, contractual repayment performance may be returned to accrual status when *all* of the following criteria are met. These loans are hereafter referred to as "partially charged-off loans accruing interest at a market rate."

(1) The borrower continues to retain control of any associated collateral and the loan is not an in-substance foreclosure.

(2) The loan has been reduced through a charge-off to a balance that will have the characteristics of a good loan paying interest at a market rate (i.e., that rate which the depository institution would require for a new loan of the same type with comparable terms and credit risk). Indicators of a good loan would include prudent loan-to-value ratios and adequate cash flow support similar to that which would be required by the depository institution for a new loan under its normal underwriting standards. Consequently, the book value of the loan following the charge-off will be less than the present value of the total expected cash flows, in order to provide cash flow support consistent with prudent underwriting standards. For purposes of the determination of adequate cash flow support, cash receipts must not include any interest reserves or other amounts funded indirectly or directly by the depository institution. Furthermore, designation of the loan as "other assets especially mentioned" by banking and thrift regulators for technical reasons not reflecting the assessment of the adequacy of the cash flow support would not preclude this reporting treatment, provided the loan otherwise meets all four of these criteria.

(3) The amount and timing of collections must be reasonably estimable. Further, the amount and timing of anticipated cash flow must be sufficient to cover the expected lower level of debt service (i.e., the reduced principal and interest payments) on the remaining recorded loan balance. The estimated cash flow must be probable and demonstrate that the borrower will be able to fully repay the reduced loan balance plus interest over a reasonable period of time. Probability should be based on long term lease contracts, third party commitments or similar arrangements. If commitments from third parties are relied upon, the ability of those parties to perform must be thoroughly assessed and documented.

(4) The borrower must have performed for a sustained period at the level necessary to service the reduced principal and interest payments on the remaining loan balance. A sustained period is that which, under the specific circumstances, is sufficient to reasonably demonstrate the ability of the borrower to continue required performance. In making this determination, existing sustained performance which began prior to the date of the adoption of this reporting treatment should be considered.

Only once during the life of a loan relationship may a nonaccrual loan be reduced through a charge-off to a balance that may be returned to accrual status. If there is a further charge-off due to renewed doubt as to collectibility of a nonaccrual loan that has been returned to accrual status by means of this reporting treatment, the accrual of interest should be discontinued, unless and until the loan subsequently meets the existing reporting requirements for return to accrual status based on its *contractual* terms.

Income Accrual. For a loan which has been returned to accrual status through this reporting treatment, interest income must be accrued at the market interest rate used in the second criterion, above. Cash receipts in excess of that required to amortize the recorded loan balance at this market rate may occur. Interest income in excess of that accrued at the market rate on the reduced loan balance cannot be recognized until all prior charge-offs have been recovered. Recoveries of partial charge-offs can only be recorded when realized as cash is received.

Continuing Performance. Once a loan has been returned to accrual status under this reporting treatment, the required evaluation of cash flows and payment performance should be updated at each report date to

determine whether the loan continues to meet the criteria for remaining on accrual status.

If a loan fails to perform in accordance with the criteria for adoption of this reporting treatment, but no further charge-off is necessary, the loan must again be placed on nonaccrual status. Also, when a loan meets the existing Call Report or TFR nonaccrual criteria applied to the remaining book balance and related debt service, the loan must be placed on nonaccrual status. In either event, the return of a partially charged-off loan to nonaccrual status may be indicative of an insubstance foreclosure.

A loan that has been placed on accrual status through this reporting treatment but that later has been placed on nonaccrual status (other than following a further charge-off due to renewed doubt as to collectibility) may be restored to accrual status only when the loan meets the existing reporting requirements for restoration to accrual status based on the lower required debt service. Additionally, the loan must again meet the four criteria previously set forth. In this case the loan would be returned to the category of "Partially Charged-off Loans Accruing Interest at a Market Rate." Of course, any loan that meets the existing reporting requirements for restoration to accrual status, based on its contractual terms, may be returned to accrual status. In this case the loan would not be included in the category of "Partially Charged-off Loans Accruing Interest at a Market Rate."

Other Matters. This reporting treatment will require depository institutions to charge a loan down to a point where the remaining principal balance will be repaid at a market rate of interest and provided the reduced loan balance has collateral and cash flow support equivalent to that expected under prudent underwriting standards. Thus, the adoption of this reporting treatment may require greater charges against the allowance for loan and lease losses (ALLL) than were contemplated for the loans in question when the ALLL was last evaluated. Depository institutions must ensure that the adoption of this reporting treatment does not diminish the adequacy of the ALLL.

Appraisals of collateral values should be performed in accordance with existing regulatory standards.

Information on loans to which this reporting treatment has been applied is to be reported in the Call Report or TFR.

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[Release No. 33-6883, File No. S7-4-91]

Securities Uniformity; Annual Conference on Uniformity of Securities Law

AGENCY: Securities and Exchange Commission.

ACTION: Publication of release announcing issues to be considered at a conference concerning uniformity of securities laws, and requesting written comments.

SUMMARY: In conjunction with a conference to be held on April 19, 1991, the Commission and the North American Securities Administrators Association, Inc. today announced a request for comments on the proposed agenda for the conference. This inquiry is intended to carry out the policies and purposes of section 19(c) of the Securities Act of 1933, adopted as part of the Small Business Investment Incentive Act of 1980, to increase uniformity in matters concerning state and federal regulation of securities, maximize the effectiveness of securities regulation in promoting investor protection, and reduce burdens on capital formation through increased cooperation between the Commission and the state securities regulatory authorities.

DATES: The conference will be held on April 19, 1991. Written comments must be received on or before April 12, 1991 in order to be considered by the conference participants.

ADDRESSES: Written comments should be submitted in triplicate by April 12, 1991 to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments should refer to File No. S7-4-91 and will be available for public inspection at the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Richard K. Wulff or William E. Toomey, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549, (202) 272-2644.

SUPPLEMENTARY INFORMATION:

I. Discussion

A dual system of federal-state securities regulation has existed since the adoption of a federal regulatory structure in the Securities Act of 1933 (the "Securities Act").¹ Issuers

attempting to raise capital through securities offerings, as well as participants in the secondary trading markets, are responsible for complying with federal securities laws as well as all applicable state regulations. In recent years, it has been recognized that there is a need to increase uniformity between federal and state regulatory systems and to improve cooperation among those regulatory bodies so that capital formation can be made easier while investor protections are retained.

The importance of facilitating greater uniformity in securities regulation was endorsed by Congress with the enactment of section 19(c) of the Securities Act in the Small Business Investment Incentive Act of 1980 (the "Investment Incentive Act").² Section 19(c) authorizes the Commission to cooperate with any association of state securities regulators which can assist in carrying out the declared policy and purpose of section 19(c). The declared policy of the section is that there should be greater federal and state cooperation in securities matters, including: (1) Maximum effectiveness of regulation; (2) maximum uniformity in federal and state standards; (3) minimum interference with the business of capital formation; and (4) a substantial reduction in costs and paperwork to diminish the burdens of raising investment capital, particularly by small business, and to diminish the costs of the administration of the government programs involved. In order to establish methods to accomplish these goals, the Commission is required to conduct an annual conference. The 1991 conference will be the eighth annual conference.

II. 1991 Conference

The Commission and the North American Securities Administrators Association, Inc. ("NASAA")³ are planning the 1991 Conference on Federal-State Securities Regulation (the "Conference") to be held April 19, 1991 in Washington, D.C. At the Conference, representatives from the Commission and NASAA will form into working groups in the areas of corporation finance, market regulation, investment management, and enforcement, to discuss methods of enhancing cooperation in securities matters in order to improve the efficiency and effectiveness of federal and state securities regulation. Generally,

² Public Law 96-477, 94 Stat. 2275 (October 21, 1980).

³ NASAA is an association of securities administrators from each of the 50 states, the District of Columbia, Puerto Rico, Mexico and twelve Canadian Provinces and Territories.

¹ 15 U.S.C. 77a et seq.

attendance will be limited to representatives of the Commission and NASAA in an effort to maximize the ability of Commission and state representatives to engage in frank and uninhibited discussion. However, each working group, in its own discretion, may invite certain self-regulatory organizations to attend and participate in certain sessions.

Representatives of the Commission and NASAA currently are in the process of formulating an agenda for the Conference. As part of that process, the public securities associations, self-regulatory organizations, agencies, and private organizations are invited to participate through the submission of written comments on the issues set forth below. In addition, comment is requested on other appropriate subjects that commenters wish to be included in the Conference agenda. All comments will be considered by the Conference attendees.

III. Tentative Agenda and Request for Comments

The tentative agenda for the Conference consists of the following topics in the areas of corporation finance, investment management, market regulation and oversight, and enforcement.

(1) Corporation Finance Issues

a. Uniform Limited Offering Exemption

Congress specifically acknowledged the need for a uniform limited offering exemption in enacting section 19(c) of the Securities Act and authorized the Commission to cooperate with NASAA in its development. Working with the states, the Commission developed regulation D, the Federal exemption governing exempt limited offerings. Regulation D was adopted by the Commission in March 1982. On September 21, 1983, NASAA endorsed a revised form of the Uniform Limited Offering Exemption ("ULOEO") that is intended to coordinate with regulation D.

ULOEO provides a uniform exemption from state registration for certain issuers. An issuer raising capital in a state which has adopted ULOEO may take advantage of both a state registration exemption and a federal exemption under regulation D. Because Regulation D provides the framework for ULOEO, NASAA's assistance in developing proposals to change regulation D is invaluable. Within the past four years the Commission, with

NASAA's cooperation, has adopted significant changes to regulation D.⁴

To date, more than half of the states have adopted some form of ULOEO. Both the Commission and NASAA continue to make a concerted effort toward the universal adoption of ULOEO. The conferees will discuss viable options to convince states that do not currently have ULOEO to adopt ULOEO.

b. Blank Check Issuers

The Securities Enforcement Remedies and Penny Stock Reform Act of 1990⁵ established stringent new standards for the penny stock market, and authorizes the Commission to adopt rules regulating that market consistent with the public interest and the protection of investors. The aspect of this legislation which is of particular relevance as a corporation finance issue is the provision which directs the Commission to adopt special rules with respect to blank check offerings. Such rules may require that securities issued and funds raised in such offerings be placed into escrow until specified events occur and further may require that investors in such offerings be given rescission rights. The conferees will consider proposed rulemaking in this area.

c. Other Exemptive Approaches

Participants at the Conference will consider possible rulemaking initiatives which the Commission might undertake.

The Commission's regulation A provides a general exemption from the registration requirements of the Securities Act. Representatives of various committees of the Business Law Section of the American Bar Association and of NASAA have been discussing with the Commission staff possible revisions and amendments to that regulation which might form the basis for a uniform exemption at both the Federal and state levels. The purpose of such revisions would be to enhance the utility of this exemption in today's markets.

Section 3(a)(11) of the Securities Act exempts from registration transactions involving securities which are offered and sold within a single state or territory subject to certain conditions. The Commission's Rule 147 seeks to establish objective tests to help assure the availability of the intrastate exemption. The conferees will discuss Rule 147 and consider whether the rule continues to play a significant role in the

exemptive scheme and whether revisions to the Rule could make it more useful to companies raising capital while still protecting investors.

Comment is requested on these proposed exemptions as well as other uniform exemptions that might be developed to enhance the ability of issuers to raise capital.

d. Disclosure Policy and Standards

The Commission has an ongoing program of considering, reviewing and revising its policies with regard to the most appropriate methods of ensuring the disclosure of material information to the public. Coordination with the states has been beneficial. Recently, both the Commission and the states have been devoting a considerable amount of their resources to matters involving penny stock companies. The conferees will discuss the issues unique to disclosure policy involving these companies. The so-called "blank check" offerings also will be discussed. In addition the "roll-up" technique whereby an affiliated entity may acquire a number of limited partnerships will be considered. The conferees will treat the special disclosure problems involved in all of these transactions.

Commenters are invited to discuss other areas where federal-state cooperation in the area of disclosure standards could be of particular significance as well as any ways in which federal-state cooperation could be improved.

e. Multinational Securities Offerings

In July 1989, the Commission, the Ontario Securities Commission and the Commission des valeurs mobilières du Québec published for comment a multijurisdictional disclosure system that would permit certain Canadian and U.S. issuers to offer securities, undertake tender offers, and file periodic reports using the disclosure procedures of their home jurisdiction.⁶ On October 16, 1990, after reviewing the comments received on the original proposal, the Commission published for comment revised proposed rules, forms and schedules intended to implement the multijurisdictional disclosure system. On September 14, 1989, NASAA endorsed the multijurisdictional disclosure system as originally proposed and called upon its membership to take any action necessary to accommodate the offerings covered by the system within state securities laws. Based upon the information obtained from a survey of securities administrators, NASAA, on

⁴ Release No. 33-6663 (October 2, 1986) (51 FR 36385); Release No. 33-6758 (March 3, 1988) (53 FR 7866); Release No. 33-6825 (March 14, 1989) (54 FR 11369).

⁵ Pub. L. 101-429, 104 Stat.931 (October 15, 1990).

⁶ Release No. 33-6841 (July 24, 1989) (54 FR 32226).

August 30, 1990, adopted Model Rules to the Uniform Securities Act (1956) and recommended their adoption to the membership, where necessary to accommodate the Canadian multijurisdictional system.

The current status of the multijurisdictional disclosure system and of the Model Rules will be discussed.

On June 6, 1990, the Commission issued a concept release on multinational tender and exchange offers. In the release, the Commission sought comment on a conceptual approach designed to encourage foreign bidders to extend multinational tender and exchange offers to their U.S. securityholders on the basis of foreign disclosure, procedural and accounting requirements, where U.S. investors own a small percentage of the securities sought. As a result of comments received on that release and other information available, the staff of the Commission is considering the development of exemptions and short form registration statements that would enable foreign issuers to make exchange offers and rights offerings to U.S. security holders, under certain circumstances, using home company documents. These proposed exemptions and new registration forms will be discussed, with special consideration being given to methods of coordinating federal and state regulations to accommodate such multinational offerings.

Comment is specifically requested on ways to coordinate federal and state treatment of multinational offerings.

(2) Market Regulation Issues

a. Central Registration Depository ("CRD")

The CRD is a computerized system developed by NASAA and the National Association of Securities Dealers, Inc. ("NASD") and is used to register securities industry personnel with the NASD and the states. The CRD will be discussed by the market regulation working group. The NASD, all fifty states, the District of Columbia, Puerto Rico, the New York Stock Exchange, the American Stock Exchange, and the Chicago Board Options Exchange presently approve or register broker-dealer agents by means of the CRD. In addition, forty-eight jurisdiction including the District of Columbia, register broker-dealers on the CRD. Persons filing applications for agent

registration file a Form U-4⁷ and any required fees with the CRD, which disseminates the information contained on the forms and transmits fees electronically to the appropriate participating jurisdictions.

During the sessions, participants will focus on the present efficacy of the CRD, future uses of the CRD by the states and the relationship of the Commission to the CRD (including processing of broker-dealer registrations with the Commission is in the process of becoming a CRD participant, subject to the resolution of certain contractual and logistical issues. Commission participation in CRD will permit broker-dealers to make one filing of a uniform registration form and amendments with the NASD, which will include the filing in the CRD. In addition to improving the efficiency of the registration process, the new system will provide better access to critical data and result in substantial cost savings to registrants by eliminating multiple filings with several regulatory bodies.

Commenters are requested to address the effectiveness and efficiency of the CRD (including any suggestions for improving the system) as well as the future direction of the system.

b. Disclosures on Registration Forms

The Commission and NASAA are considering revisions to Form BD, the uniform form for broker-dealer registration and the Schedules to these forms.⁸ The revisions to Form BD are intended generally to clarify its reporting requirements relating to the disciplinary history of the applicant and its control persons (Question 7 of Form BD). They also would expand the scope of the question on the applicant's background (Question 7) to include sanctions and criminal convictions by a foreign court or financial regulatory authority, in accordance with the International Securities Enforcement Cooperation Act of 1990. The revisions would also delete the current requirement that applicants report on the Form "minor rule violations" as designated in plans of self-regulatory organizations.

The Schedules would be revised to modify the ownership disclosure requirements of those schedules, simplify the presentation of the information, and possibly reduce the filing burden. A Disclosure Reporting Page also would be added, as in Form

⁷ Form U-4 is the uniform form for licensing salespersons with the states and various self-regulatory organizations.

⁸ Similar changes are contemplated for Form ADV, the uniform form for investment advisers.

U-4, for use in reporting the details to answers to Question 7.

The Commission and NASAA will also discuss interpretations of the term "proceeding" as used on the Form, the reporting consequences of various interpretations of the term, and the regulatory advantages of obtaining notice of pending civil actions and similar matters, whether through the Form or otherwise.

c. Internationalization of the Securities Markets

The implications of multinational securities offerings are being discussed in the corporation finance working group with a particular focus on the development of multijurisdictional disclosure systems as well as ways to accommodate certain exchange and rights offerings. The market regulation working group will also discuss internationalization with the resulting development of the global securities markets. The Commission continues to follow closely these developments and, to that end, requests comment on the direction of the internationalization of the trading markets. Commenters are asked to address steps that would be useful on the national and state levels to facilitate international markets while protecting investors and maintaining fair and orderly markets in the United States.

d. "Penny Stock" Fraud

The Commission and NASAA will discuss regulatory approaches to reducing the incidence of fraud in the sale of pink sheet securities. The Securities Enforcement Remedies and Penny Stock Reform Act of 1990 and the Commission rules required under that Act will be discussed along with similar rules or statutes enacted by several states. The proposed amendments to Commission Rule 15c2-11 and other possible rule proposals to improve information available to customers and heighten broker-dealer compliance with their fiduciary duties to their customers also will be discussed. Finally, the Commission and NASAA will discuss ways to further enhance effective regulatory coordination between and among the states, the Commission and the self-regulatory organizations.

e. Risk Assessment Rules

The Market Reform Act of 1990 authorized, among other things, the Commission to establish a risk assessment recordkeeping and reporting system for broker-dealers. The risk assessment system will enable the Commission to obtain information

regarding certain activities of broker-dealer affiliates that are reasonably likely to have a material impact on the financial condition of the broker-dealer. The risk assessment rules will enhance the ability of the Commission to monitor the financial condition of broker-dealers and will improve the system of regulatory oversight over the securities markets.

At present, the Commission staff is developing proposals for implementing rules, regulations and forms for the risk assessment system. The Commission's staff progress in this project will be discussed at the SEC/NASAA Conference.

f. Rules for Large Trader Reporting System

The Market Reform Act of 1990 also authorized the Commission to establish a Large Trader Reporting ("LTR") system for the securities markets. The LTR system will enhance significantly the ability of the Commission and securities self-regulatory organizations ("SROs") to perform timely trade reconstructions of significant market events and conduct surveillance inquiries and investigations into possible abusive intermarket trading strategies.

At present, the Commission staff is developing proposals for implementing rules, regulations, and forms for the LTR system. The Commission staff's progress in this project will be discussed at the SEC/NASAA Conference.

g. Arbitration

There have been a number of developments in the Commission's oversight of SRO arbitration issues. The Securities Industry Conference on Arbitration ("SICA") is currently exploring the possible merits (or disadvantages) of a combination of all of the SROs' arbitration programs into a single arbitration facility. SICA has commissioned a study by the accounting firm of Coopers & Lybrand to consider this issue. The study is now scheduled to be completed by Spring 1991. Commenters are asked to address the potential advantages and disadvantages of a single securities SRO forum for handling all public customer arbitration claims.

In addition, the Commission staff has initiated discussions with the SROs and industry to expand investor access to non-SRO-sponsored arbitration. In January 1991, the NYSE responded by indicating that its five largest members will carry out a pilot program in which the firms will agree under certain conditions to the post-dispute submission of certain claims to

arbitration at the American Arbitration Association. The letter indicates that participants in the pilot program would be likely to condition the submission of cases to AAA-administered arbitration upon the use of some or all of the SROs' Uniform Code of Arbitration, an apportionment of costs in excess of those charged by the SRO forums and the availability of necessary parties, among others.⁹ The staff will monitor the pilot to assess to what extent it has achieved real progress in affording investors with ready access to a non-SRO forum.¹⁰ Commenters are asked to address the issue of access to non-SRO arbitration forums.

(3) Investment Management Issues

a. Investment Companies

(i) *Internationalization Issues.* In November 1988, the Commission released a Policy Statement on Regulation of International Securities Markets ("Policy Statement") which identified areas of regulatory concern presented by the continued internationalization of the securities markets. The Policy Statement cites as one goal the easing of restrictions on cross-border sales of investment company shares. The Policy Statement notes that if cross-border sales of investment company shares are to be facilitated, cooperative efforts by securities regulators are a necessity, and that the most promising approach currently seems to be one based on mutually acceptable standards which are adequate for protection of investors. The conferees expect to discuss various issues related to achieving this goal.

(ii) *Special Study on Investment Company Regulation.* The Commission is reexamining the regulation of investment companies under the federal securities laws. As part of this reexamination, the Commission published a concept release seeking comment on reform of the regulation of investment companies under the federal securities laws. The Division of Investment Management ("Division") has reviewed the comments submitted in response to the concept release and is formulating its recommendations to the Commission. The conferees will discuss issues raised by the concept release, particularly those that may affect state laws.

(iii) *Uniform Disclosure Requirements.* Representatives of

⁹ Letter dated January 29, 1991 from Richard A. Grasso, Executive Vice Chairman, NYSE, to Richard G. Ketchum, Director, Division of Market Regulation, SEC.

¹⁰ See Letter dated February 20, 1991 from Richard G. Ketchum to Richard A. Grasso.

NASAA and Division staff have discussed the possibility of finding a method by which the Commission and as many states as possible could accept the same disclosure documents from investment company registrants. This result could be achieved by either harmonizing the federal and state disclosure requirements, as was done with Form ADV, the investment adviser registration form, or by providing a way to create a disclosure filing that meets Commission and all state requirements even if the Commission or some states would not alone require all of the disclosure. With respect to open-end management investment companies and unit investment trusts, it is important to note that many states use the currently existing uniform application forms, Forms U-1 and U-2. Streamlining uniform state filing procedures would have the added advantage of facilitating eventual one-stop electronic filing meeting both federal and state requirements. The conferees will review what progress has been made to achieve this goal.

(iv) *Blue Sky Laws.* In recent years the Commission occasionally has encountered situations in which investment companies have failed to maintain the registration of their shares under state "Blue Sky" laws. Failure to register may result in the investment company accruing substantial contingent liabilities. This, in turn, raises questions concerning the accurate calculation of net asset values and the adequacy of prospectus disclosure. At its 1989 annual meeting, the membership of NASAA adopted a resolution setting out procedures designed to facilitate cooperation between the states and the Commission for determining the amount of liabilities resulting from failures to register. The conferees will review the effectiveness of these procedures and determine whether additional efforts need to be made to better assure compliance with applicable state registration requirements.

(v) *Unit Investment Trust Yield Advertising.* In February 1988, the Commission adopted new rules and amendments to several rules and forms under the Securities Act of 1933 and the Investment Company Act of 1940 ("Investment Company Act") affecting the advertising of mutual funds and insurance company separate accounts offering variable annuity contracts. Among other things, these rules standardized the computation of fund performance data used in advertisements. Division staff is currently developing similar rule proposals for unit investment trusts

("UITs"). The conferees expect to discuss various aspects of UIT advertising and performance data and current disclosure positions taken by Division staff in reviewing registration statements filed by UITs.

(vi) *Two-part Disclosure Approach*. In an effort to provide a more readable prospectus document for mutual fund investors, the Commission adopted Form N-1A in August of 1983, the registration statement for mutual funds, providing for a two-part system of disclosure using the prospectus and the Statement of Additional Information ("SAI"). As part of its response to the Commission's 1990 concept release on the reform of the regulation of investment companies, NASAA expressed concern about the "drifting" of material disclosures by mutual funds from the prospectus of the SAI, which is made available to investors only upon request. The conferees will consider the two-part disclosure format used in Form N-1A and will discuss whether, since the adoption of Form N-1A, material information has "drifted" from the prospectus to the SAI, and the actual accessibility of the SAI to mutual fund investors.

b. Investment Advisers

(i) *Central Registration Depository ("CRD")*. In October 1985, NASAA and the Commission adopted a uniform adviser registration form for advisers registering with the Commission and the states that register advisers. At that time, NASAA and the Commission indicated that a clearing house procedure, such as the CRD, would be considered to process adviser registration filings. In 1986, the CRD, in a pilot test, began registering investment adviser agents for the Commonwealth of Virginia which had just begun to require registration of advisers and their agents.

The conferees will continue to discuss developing a central registration system for advisers. The discussions will consider, among other things, how the system should be designed, what cost savings to advisers and regulatory benefits would result from a central registration processing system, what the experience is of the Virginia agent registration pilot and whether cost-effectiveness means can be developed for Commission participation in any central processing system using the CRD.

(ii) *Investment Adviser Registration Form*. In 1989, the Forms Revision Committee of NASAA began to consider possible revisions to Form ADV. Its efforts have been focused on accommodating future entry of the form into a central registration system. The

committee is considering reducing the amount of information requested by the form for the registration of advisers by eliminating certain items or including them in a separate disclosure document or annual report. These items would generally be those that are currently required to be updated on an annual basis. The conferees will discuss the progress of this committee's efforts.

(iii) *Inspections*. The conferees also expect to discuss the ongoing cooperative efforts of the Commission and the states to increase routine surveillance of investment advisers. A joint Commission/State inspections and training program was instituted in 1984 to coordinate regulatory efforts by sharing registration and examination information, thereby increasing the overall regulatory coverage of the investment adviser industry.

(iv) *Applicability of Federal and State Adviser Laws to Financial Planners and Other Persons*. In Investment Advisers Release No. 1092,¹¹ the Commission published an interpretive release concerning the applicability of the Advisers Act to financial planners and other persons who provide investment advice as a component of other financial services. The views expressed in the release were developed jointly by Division staff and NASAA to provide uniform interpretations of the application of federal and state adviser laws to financial planners and other persons. The conferees expect to discuss the status of accountants, lawyers, teachers and engineers under state and federal adviser laws with a view to determining whether there is a need to clarify the positions set forth in Release 1092.

(4) Enforcement Issues

In addition to the above stated topics, the state and federal regulators will discuss various enforcement related issues which are of mutual interest.

(5) General

There are a number of matters which are applicable to all, or a number, of the areas noted above. These include Edgar, the Commission's pilot electronic disclosure system, the coordination of Commission rulemaking procedures with the states, training and educating staff examiners and analysts, and sharing of information.

The Commission and NASAA request specific public comments and recommendations on the above-mentioned topics. Commenters should focus on the agenda but may also

discuss or comment on other proposals which would enhance uniformity in the existing scheme of state and federal regulation, while helping to maintain high standards of investor protection.

By the Commission.

Dated: March 12, 1991.

Margaret M. McFarland,
Deputy Secretary.

[Release No. 34-23958; File No. SR-CBOE-88-24 (Amendment I)]

Self-Regulatory Organizations; Notice of Filing of Amendment to Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to Concentration of Options Market Maker Business

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 February 19, 1991, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Additions are italicized; deletions are bracketed:

Financial or Operational Problems

Rule 4.10. (a) In General. Whenever the Chairman or President shall find, on the basis of a report of the Department of Compliance or otherwise, that a member has failed to perform his contracts or is insolvent or is in such financial or operational condition or is otherwise conducting his business in such a manner that he cannot be permitted to continue in business with safety to his customers or creditors or the Exchange, the Chairman or the President may summarily suspend the member in accordance with Chapter XVI or may impose such conditions and restrictions upon his membership as he considers reasonably necessary for the protection of the Exchange and the customers of such member.

(b) Firms Clearing Market Maker Trades.

(1) A member that clears market maker trades must give fifteen (15) calendar days *prior* written notice to the

¹¹ Investment Advisers Act Rel. No. 1092 (October 8, 1987) [52 FR 38400].

President of the Exchange, or his designee, concerning any proposed Significant Business Transaction ("SBT") as enumerated in this subsection (b)(1) (i) through (iii). Notification of any SBT as enumerated in this subsection (b)(1) (iv) through (vii) shall be made in writing to the President of the Exchange, or his designee, not later than five (5) business days from the date on which the SBT becomes effective. [(as herein defined)] A [Significant Business Transaction] SBT shall mean: (i) the combination, merger or consolidation between the member and another person engaged in the business of effecting, executing, clearing or financing transactions in securities or futures products, [the direct or indirect combination or affiliation with another person engaged in the business of clearing market maker trades,] (ii) [the entry into the business of clearing market maker trades by an affiliate of the member, (iii)] the transfer from another person of market maker, broker dealer, or customer securities or futures accounts which are significant in size or number to the business of the member, [(iv) a merger or consolidation between the member and another person, (v)] (iii) the assumption or guarantee by the member of [the] liabilities, [of another person] otherwise than in the ordinary course of business, of another person engaged in the business of effecting, executing, clearing or financing transactions in securities or futures products, [(vi)] iv the sale by the member of a significant part of its assets to another person, [(vii)] v a change in the identity of any general partner or a change in the beneficial ownership of 10% of any class of the outstanding stock of any corporate general partner (if the member is a partnership), [(viii)] vi a change in the beneficial ownership of 20% of any class of the outstanding stock of the member or the issuance of any capital stock of the member (if the member is a corporation), or [(ix)] vii the acquisition by the member of assets of another person that would constitute a "business" that is "significant," as those terms are defined in Section 11-01 of Regulation S-X.

(2) A proposed SBT of a member as enumerated in subsection (b)(1) (i) through (iii) is subject to the prior approval of the Exchange's Office of the Chairman ("OOC") when the member's market maker clearance activities exceed, or would exceed as a result of the proposed SBT, any of the following parameters: (i) 15% of cleared Exchange market maker contract volume for the most recent three (3) months; (ii) an average of 15% of the number of

Exchange registered market makers as of each month end for the most recent three (3) months, or (iii) 25% of market maker gross deductions (haircuts) defined by SEC Rule 15c3-1 (a)(6) or (c)(2)(x) carried by the clearing member(s) in relation to the aggregate of such haircuts carried by all other market maker clearing organizations for any month end within the most recent three (3) months. The Exchange shall notify in writing each member that clears market maker trades within ten (10) business days from the close of each month of that member's proportion of the market making clearing business, whether or not such business exceeds the parameters described in (i), (ii), and (iii) of this subsection (b)(2). Members subject to this subsection (b)(2) must provide thirty (30) calendar days notice of the proposed SBT, as enumerated in subsection (b)(1) (i) through (iii), to the President or his designee. The OOC may disapprove a member's proposed SBT, or approve such SBT subject to certain conditions, within the thirty (30) day period. The OOC may disapprove or condition a member's SBT within the thirty (30) day period if the OOC determines that such SBT has the potential to threaten the financial or operational integrity of Exchange market maker transactions.

(3) In addition, at any time, the OOC may impose additional financial and/or operational requirements on a member that clears market maker trades when the OOC determines that the member's continuance in business without such requirements has the potential to threaten the financial or operational integrity of Exchange market maker transactions.

(4) A member that clears market maker trades must give [thirty (30)] fifteen (15) calendar days written notice to the President of the Exchange, or his designee, of any proposal to terminate such business or any material part thereof.

(5) A member subject to this rule must provide promptly, in writing, all information reasonably requested by the Exchange. Until such information, and any other information provided pursuant to this subsection (b), is otherwise publicly disclosed, the information shall be kept confidential, except that such information may be disclosed to members of the staff and other agents of the Exchange who are engaged in reviewing the proposed transaction, but such employees and agents shall keep such information confidential and use it only for purposes of reviewing the proposal.

(6) In considering a proposed SBT, the OOC may consider, among other relevant matters, the following criteria:

(a) The effect of the proposed SBT on (i) the capital [base] size and structure of the resulting clearing member organization(s); (ii) the potential for financial failure, and the consequences of any such failure on the market maker system as a whole; and (iii) the potential for increased or decreased operational efficiencies arising from the proposed transaction.

(b) The effect of the proposed SBT upon overall concentration of options market makers, including a comparison of the following measures before and after the proposed transaction:

(i) proportion of exchange market makers cleared; (ii) proportion of exchange market maker contract volume cleared; and (iii) proportion of market maker gross deductions (haircuts) as defined by SEC Rule 15c3-1(a)(6) or (c)(2)(x) carried by the clearing member(s) in relation to the aggregate of such deductions carried by other market maker clearing organizations.

(c) The regulatory history of the affected member organization(s), specifically as it may indicate a tendency to financial/operational weakness.

(d) The history of the affected member organization(s) with respect to late trade match input or other operational deficiencies as determined by the Clearing Procedures Committee.

(7) In the event the OOC determines, prior to the expiration of the thirty (30) day period set forth in subsection (1) hereof, that a proposed SBT may be approved without conditions, the OOC shall promptly so advise the member. All OOC decisions to disapprove or condition a proposed SBT pursuant to subsection (b)(2) hereof or to impose extraordinary requirements pursuant to subsection (b)(3) hereof shall be in writing, shall include a statement setting forth the grounds for the OOC's decision, and shall be served on the member. Notwithstanding any other provisions of the Rules of the Exchange, the member may appeal such decision directly to the Board of Directors of the Exchange by filing an application for review with the Secretary of the Exchange within fifteen (15) days of the date of service of the decision. The application for review shall be in the form prescribed by rule 19.5(a), and the Board's review shall be conducted in the manner prescribed by rule 19.5(b), except that the member may waive the making of a record. Review by the Board shall be the exclusive method of reviewing a decision of the OOC

pursuant to this subsection (b). The appeal to the Board of a decision of the OOC shall not operate as a stay of that decision during the pendency of the appeal. The Exchange shall file notice with the SEC in accordance with the provisions of section 19(d)(1) of the Securities Exchange Act of all final decisions to disapprove or condition a proposed SBT pursuant to subsection (b)(2) hereof, or to impose extraordinary requirements pursuant to subsection (b)(3) hereof.

(8) The provisions of subsection (b) of this rule do not preclude (i) summary Exchange action under subsection (a) above or under Chapter XVI of the Rules or (ii) other Exchange action pursuant to the Rules of the Exchange.

(9) The OOC may exempt a member from the requirements of subsection (b)(1) hereof, either generally or in respect of specific types of transactions, based on the limited proportion of market maker trades on the Exchange that are cleared by the member or on the limited importance that the clearing of market maker trades bears to the total business of the member.

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 and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The addition of a new paragraph (b) to Exchange Rule 4.10 is proposed to deal with concerns raised by a concentration of options market maker business cleared through a limited number of member organizations (clearing firms). The failure, or even temporary suspension, of a major clearing firm's ability to clear its market maker customers, could impair the Exchange's ability to maintain a liquid options market and might possibly cause irreparable injury to the options market as a whole. For this reason, the Exchange proposes to establish authority in its Office of the Chairman ("OOC") to review transactions of clearing firms which could increase market maker concentration and to

impose financial or operational requirements if they are warranted.

The current amendments to the original proposal clearly limit the Exchange's authority to consider only mergers, combinations or consolidations between a member engaged in the clearance of options market making transactions and other persons engaged in the business(es) of effecting, executing, clearing or financing transactions in securities or futures products. The amendments also establish a uniform fifteen (15) calendar days prior notice requirement for all aspects of the rule, except where prior approval is required of the Office of the Chairman for which the rule continues to require thirty (30) calendar days prior notification.

This rule proposal is consistent with section 6(b)(5) of the Act in that it serves to protect investors and the public interest through the maintenance of a strong financial and operational system for the clearance of market maker transactions, and in that it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange generally views the combination of market maker clearing firms as beneficial to the effective clearance of market maker transactions, especially in those situations where a lesser capitalized firm is severely limited in its financing abilities. However, the Exchange has become increasingly dependent upon a smaller number of clearing firms, where continued financial and operational soundness of any one "concentrated" entity could have an inordinate impact upon the Exchange's ability to insure the continuous clearance of market maker transactions. The proposal attempts to appropriately balance the potential harm from undue concentration in the clearing business and the benefits from increased capital and operational efficiencies which may result from combinations of clearing firms. Although this rule may impede the ability of certain competitors to expand, on the whole the rule is designed to increase competition among all clearing members by avoiding concentration of that business in a few. The Exchange believes that this rule change will not impose a burden upon competition inconsistent with section 6(b)(8) of the Act, and in fact will foster an environment where competition is encouraged.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

With respect to these current amendments, no comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 8, 1991.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 11, 1991.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-6387 Filed 3-15-91; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Cincinnati Stock Exchange,
Inc.**

March 12, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

- Frederick's of Hollywood, Inc.
Capital Stock, \$1.00 Par Value (File No. 7-6631)
- International Game Technology
Common Stock, \$0.005 Par Value (File No. 7-6632)
- Liz Claiborne, Inc.
Common Stock, \$1.00 Par Value (File No. 7-6633)
- Martech USA, Inc.
Common Stock, \$0.01 Par Value (File No. 7-6634)
- MBNA Corp.
Common Stock, \$0.01 Par Value (File No. 7-6635)
- Milestone Properties, Inc.
Common Stock, \$0.01 Par Value (File No. 7-6636)
- Norwest Corp.
Depository Shares (Representing ¼ sh. of 10.24% Cum. Pfd. Stock) (File No. 7-6637)
- Preferred Income Fund, Inc.
Common Stock, \$0.01 Par Value (File No. 7-6638)
- Western Digital Corp.
Common Stock, \$0.10 Par Value (File No. 7-6639)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 2, 1991, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-6293 Filed 3-15-91; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Midwest Stock Exchange, Inc.**

March 12, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities and Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

- Commercial Intertech Corp.
Common Stock, \$1.00 Par Value (File No. 7-6613)
- Continental Home Holding Corp.
Common Stock, \$0.01 Par Value (File No. 7-6614)
- Medco Research Inc.
Common Stock, No Par Value (File No. 7-6615)
- Mueller Industries, Inc.
Common Stock, \$0.01 Par Value (File No. 7-6616)
- Nuveen Florida Investment Quality Municipal Fund
Common Stock, \$0.01 Par Value (File No. 7-6617)
- Redlaw Industries
Common Stock, No Par Value (File No. 7-6618)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 2, 1991, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-6294 Filed 3-15-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28957; File No. SR-NASD-91-10]

**Self-Regulatory Organizations;
Proposed Rule Change by National
Association of Securities Dealers, Inc.
Relating to Electronic Filing of FOCUS
Information**

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 February 15, 1991¹, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC or Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's
Statement of the Terms of Substance of
the Proposed Rule Change**

Pursuant to section 17a-5(a)(4), the Association has filed with the Commission an amendment to its Plan For The Implementation of FOCUS Reports. Under the Plan, as amended, FOCUS information will be filed with the Association electronically, not by paper filings. This new requirement will not, however, apply to the filing of the annual audited financial statement filed pursuant to SEC Rule 17a-5(d), which will continue to be a paper filing. There is no change to the type of information to be filed or to the frequency of filing.

**II. Self-Regulatory Organization's
Statement of the Purpose of, and
Statutory Basis for the Proposed Rule
Change**

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

¹ An amendment to the proposed rule change was filed on March 7, 1991, requesting that the filing be recharacterized. The NASD wishes the filing to be reviewed pursuant to section 19(b)(2) rather than 19(c)(3)(A). See letter from T. Grant Callery, Vice President and Deputy General Counsel, NASD, to Katherine A. England, Branch Chief, SEC, dated March 7, 1991.

statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) In 1975, the Commission adopted a new uniform report, the FOCUS Report, as part of an effort to streamline financial and operational reporting by broker/dealers. Simultaneously, the Commission approved a plan submitted by the NASD pursuant to SEC Rule 17a-5 that permitted NASD members to file the FOCUS information with the NASD (which under the plan would forward the FOCUS information to the Commission) to further consolidate the filing process. (See Securities Exchange Act Release No. 11935, December 17, 1975.)

Since that time, the FOCUS system has served as a primary tool for financial and operational surveillance of broker/dealers. But, as the securities industry has expanded and the technology of automation has developed, the processing of FOCUS reports has remained a paper-intensive process. Beginning in June 1991, however, in accordance with and following approval of amendments to the NASD FOCUS filing plan filed with the Commission pursuant to SEC Rule 17a-5(a)(4), NASD members will submit FOCUS information to the NASD electronically. Called NASDNETSM, the new Electronic FOCUS Filing System will ease the administrative burden and reduce costs related to the filing and analysis of FOCUS Reports.

NASD will provide the necessary PC software and telecommunication service to the system at no cost to the member. The NASD member will prepare its FOCUS Reports on its computer using the provided software, which includes report templates, and send them to a Sprintmail[®] electronic mailbox, from which NASD will retrieve the reports. (The system is designed so that a report cannot be transmitted unless all mathematical operations in the report are done correctly.)

Security in the system will be maintained by the use of electronic mail user identification and passwords, and, in addition, the filing of Personal Identification Number Registration forms with the NASD, which will identify, for purposes of both security and regulatory responsibility, the notarized signature of the registered

Principal(s) responsible for the member's FOCUS filings.

While electronic filing will be mandatory, members who do not have or cannot obtain the necessary equipment—INB-compatible computers with a minimum of 640K RAM, hard drive, display adaptor, and modem or Apple computers capable of running DOS emulators—may utilize a service bureau or equivalent third party service. NASD surveyed its members to determine how many already had the necessary equipment. Of the 3858 firms that responded, approximately 85% already had IBM-compatible computers, although many will have to enhance or replace certain parts of their equipment. The largest group, approximately 1,200, will have to acquire a modem.

Upon approval of the Plan by the Commission, the Association will begin implementing electronic filing in installments, concluding in July 1991. It is anticipated that all June 1991 filings will be made electronically. Initial filings will be made in duplicate—both electronic and paper—to ensure compliance with filing requirements as members become familiar with the new system. Members will be notified in advance regarding the training and implementation schedule.

Because the new system further centralize and automate the analysis of FOCUS information, and because it will make timely and accurate reporting of FOCUS information easier for the member, NASD believes that the benefits of the new system will outweigh the relatively low cost it will impose on members for new equipment or service bureau charges.

(b) The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, which requires that the rules of a national securities association be designed 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 mechanisms of a free and open market."

B. Self-Regulatory Organization's Statement on the Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement 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 such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by April 8, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: March 11, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-6292 Filed 3-15-91; 8:45 am]

BILLING CODE 3010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

March 12, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange

Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Paine Webber Group, Inc.

Put Warrants on the CAC 40 Index,
Expiring November 9, 1993 (File No. 7-6619)

Salomon, Inc.

Put Warrants on the Financial Times Stock
Exchange 100 Share Index, Expiring
March 3, 1993 (File No. 7-6620)

Danielson Holding Corporation

Common Stock, \$0.10 Par Value (File No. 7-6621)

Epitope, Incorporated

Common Stock, No Par Value (File No. 7-6622)

Liz Claiborne, Inc.

Common Stock, \$1.00 Par Value (File No. 7-6623)

MBNA, America

Common Stock, \$0.01 Par Value (File No. 7-6624)

Convertible Holdings, Inc.

Capital Shares \$0.10 Par Value (File No. 7-6625)

Summit Tax Exempt Bond Fund, L.P.

Beneficial Unit Certificates, No Par Value
(File No. 7-6626)

CRI Insured Mortgage Association, Inc.

Common Stock, \$0.01 Par Value (File No. 7-6627)

Gottschalks, Inc.

Common Stock, \$0.01 Par Value (File No. 7-6628)

Kaiser Aluminum Corp.

Common Stock, \$0.01 Par Value (File No. 7-6629)

Parker and Parsley Development Partners,
L.P.

Units of Limited Partner Interest, No Par
Value (File No. 7-6630)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 2, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 91-6295 Filed 3-15-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25271]

Filings Under the Public Utility Holding Company Act of 1935

March 12, 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 April 8, 1991 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant application(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 issues 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.

Northeast Utilities (70-7792)

Notice of Proposal to Issue, Sell and Acquire Common Stock in Connection with the Adoption of an Executive Incentive Plan; Order Authorizing Proxy Solicitation

Northeast Utilities ("NU"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090-0010, a registered holding company, and its service company subsidiary, Northeast Utilities Service Company ("NUSCO"), P.O. Box 270, Hartford, Connecticut 06141-0270, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(c) and 12(e) of the Act and rules 42, 50(a)(5), 62 and 65 thereunder.

On February 26, 1991, NU's Board of Trustees adopted an Executive Incentive Plan ("Plan"). NU proposes to submit the Plan to its shareholders for approval at NU's Annual Meeting of Shareholders to be held on May 21, 1991. If approved by NU's shareholders, the Plan will be effective as of January 1, 1991, and it will replace NU's Executive Incentive Compensation Program, approved by NU's shareholders in 1983, for plan years beginning on and after that date.

The Plan will be administered by NU's Board of Trustees or by a disinterested committee of the Board of Trustees. NU's Chief Executive Officer and/or Chief Operating Officer may exercise certain discretionary authority, subject to the restrictions of the Plan. Under the Plan, officers and other key employees of NU and its subsidiaries will be eligible to participate in executive incentive programs established from time-to-time under the Plan. Participants meeting stated goals over a performance cycle would receive awards consisting of cash and/or shares of NU common stock ("NU Common Shares"). NU Common Shares awarded to participants in programs under the Plan may be subject to forfeiture or other restrictions established for the particular program. Receipt of cash awarded to participants under such programs may be deferred by the participant for income tax purposes. The obligation to pay cash awards will be unfunded.

The Plan provides that, if shares of NU Common Shares are to be included in any award, NU may obtain shares for such awards through open market purchases, through issuance of treasury shares or authorized but unissued shares of common stock, or through some combination thereof. There is no specific limit on the number of treasury shares or shares of common stock purchased in the open market that may be so used. However, previously authorized but unissued shares of NU common stock may not be used to pay awards at such times as the market value of a share is less than its book value as of the end of the last fiscal quarter. It is intended that transactions in NU Common Shares pursuant to the Plan be exempt from the provisions of subsection (B) of section 16 of the Securities Exchange Act of 1934.

NU thus proposes to issue and sell each calendar year, through December 31, 2000, its authorized but previously unissued NU Common Shares, \$5.00 par value, in an amount not to exceed one-quarter of one percent of the number of NU Common Shares outstanding as of December 31 of the previous year, under

the provisions of the Plan. NU also seeks authority to reacquire forfeited NU Common Shares under the Plan and to have NUSCO reacquire NU Common Shares in the open market to pay awards under the Plan.

NU requests that sales of NU Common Shares be excepted from the competitive bidding requirements of rule 50 (b) and (c) under subsection (a)(5) thereunder.

Additionally, NU requests authority to solicit proxies from the holders of NU Common Shares, for use at the Annual Meeting of Shareholders to be held May 21, 1991, (a) approving the Plan and (b) authorizing the issuance of up to 11 million shares of NU common stock to an employee stock ownership plan ("ESOP") if NU decides to establish such an ESOP. NU states that it is not seeking authority at this time either to establish such an ESOP or to issue and sell the 11 million shares of common stock to an ESOP.

It is anticipated that solicitation materials will be mailed to shareholders commencing on or about March 23, 1991. NU has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation of proxies for voting by its stockholders on (a) and (b), above, be permitted to become effective as provided in rule 62(d) of the Act.

It appearing to the Commission that NU's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith, pursuant to rule 62:

It is ordered, that the declaration regarding the proposed solicitation of proxies, be, and it hereby is, permitted to become effective forthwith, under rule 62, subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-6388 Filed 3-15-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ended March 8, 1991

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for

answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47446.

Date filed: March 5, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 9, 1991.

Description: Application of General Department Of International Air Services (Aeroflot Soviet Airlines), pursuant to section 402 of the Act and subpart Q of the Regulations applies for amendment and reissuance of its Foreign Air Carrier Permit to operate additional service as provided for in the Civil Air Transport Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics signed in Washington on June 1, 1990 (the "Bilateral Agreement").

Docket Number: 47449.

Date filed: March 8, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 5, 1991.

Description: Application of Air Europe, S.p.A., trading as Air Europe Italy, pursuant to section 402 of the Act and subpart Q of the Regulations, request a foreign air carrier permit authorizing it to engage in charter foreign air transportation of persons and their accompanying baggage, and property as follows: Between any point or points in the Republic of Italy and any point or points in the United States.

Docket Number: 47102.

Date filed: March 4, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 1, 1991.

Description: Amendment Application of General Air Cargo, G.A.C., C.A. for a foreign air carrier permit, requests withdrawal of the request for authority to make an intermediate stop in Cuba on its route between Venezuela and Houston, Texas in the United States.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91-6278 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

Fitness Determination of Iowa Airways, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination, Order 91-3-18, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Iowa Airways, Inc., continues to be fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street SW., room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than March 25, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, room 6401), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-2340.

Dated: March 8, 1991.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 91-6277 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-62-M

[Docket 47414]

Chrysler Corp. (NHTSA—Fuel Economy Standards Enforcement); Hearings

Notice of Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge John J. Mathias. All future pleadings and other communications regarding the proceeding shall be served on him at the Office of Hearings, M-50, room 9228, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366-2142.

Served March 8, 1991.

John J. Mathias,

Chief Administrative Law Judge.

[FR Doc. 91-6276 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics; Meeting

AGENCY: Federal Aviation Administration.

ACTION: Notice of Radio Technical Commission for Aeronautics (utilized as an advisory committee) renewal.

SUMMARY: Notice is hereby given of the renewal of the Radio Technical Commission for Aeronautics (RTCA) as an advisory committee utilized by the Federal Aviation Administration and other Government agencies. The Executive Director for System Development, Federal Aviation Administration, is the sponsor.

The membership of RTCA comprises over 140 Government and industry organizations. At this time, eight Government agencies, the Departments of State, Commerce, Army, Navy, and Air Force; the Federal Aviation Administration and U.S. Coast Guard of the Department of Transportation; and the National Aeronautics and Space Administration; participate in RTCA. Private sector members include Aeronautical Radio, Incorporated; Air Line Pilots Association; Air Transport Association of America; Aircraft Owners and Pilots Association; General Aviation Manufacturers Association; National Business Aircraft Association; Electronics Industries Association members; and affiliated independent members.

The objective of RTCA is to advance the science aeronautics through the investigation of all available or potential applications of telecommunications and the adaption thereof to recognized operational requirements. To achieve this objective, RTCA, through its special committees, seeks solutions to problems involving the application of electronics and telecommunications to aeronautics operations, and frequently recommends technical performance standards and operational requirements for consideration by Government, industry, and aviation users.

The Secretary of Transportation has determined that the utilization of RTCA is necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Except as provided in section 10(d) of the Federal Advisory Committee Act (86 stat. 770), meetings of all RTCA committees, when utilized as an advisory committee, will be open to the public.

FOR FURTHER INFORMATION CONTACT: The Research and Development Service (ARD), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7383.

Issued in Washington, DC.
Steven Zaidman,
Acting Director, Research and Development Service.
[FR Doc. 91-6343 Filed 3-15-91; 8:45 am]
BILLING CODE 4910-13-M

Intent to Prepare an Environmental Impact Statement and to Hold an Environmental Scoping Meeting for Indianapolis International Airport, Indianapolis, IN

AGENCY: Federal Aviation Administration, DOT.
ACTION: Notice to hold a public scoping meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for development proposed at Indianapolis International Airport. In order to ensure that all significant issues related to the proposed action are identified, a public scoping meeting will be held.

FOR FURTHER INFORMATION CONTACT: Jerri Horst, Community Planner, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018 (312) 694-7524.

SUPPLEMENTARY INFORMATION: The Indianapolis Airport Authority is preparing an Environmental Assessment (EA) for proposed development at Indianapolis International Airport. Upon completion of the EA, the FAA will prepare an EIS. Major developments items, proposed to be completed over the next ten years, could include but not be limited to:

1. Construction of a new parallel Runway 5L/23R, ultimately 11,200 feet in length;
2. Construction of a new mid-field air carrier terminal and demolition of the existing terminal;
3. Closure of existing Runway 5L/23R due to construction of the mid-field terminal;
4. Construction of new taxiways;
5. Relocation of a portion of Bridgeport Road;
6. Construction of a new interchange at I-70 and Bridgeport Road;
7. Construction of a west access road to the new mid-field terminal;
8. Relocation of a powerline located to the west of the airport;

Comments and suggestions are invited from Federal, State and local agencies, and other interested parties to ensure that the full range of issues related to these proposed projects are addressed and all significant issues identified.

Comments and suggestions may be mailed to the FAA informational contact listed above by May 28, 1991.

Public Scoping Meeting: To facilitate receipt of comments, two public scoping meetings will be held on Wednesday, April 24, 1991. The first meeting will be held between 1 p.m. and 4 p.m. for Federal, state and local agencies in the Airport Board Room, Terminal Building, Indianapolis International Airport, Indianapolis, Indiana. The second meeting will be held from 6 p.m. to 8 p.m. for other interested parties at Decatur Central High School Auditorium, 5251 Kentucky Avenue, Indianapolis, Indiana.

Issued in Des Plaines, Illinois, on March 6, 1991.

Louis H. Yates,
Manager, Chicago Airports District Office, FAA, Great Lakes Region
[FR Doc. 91-6344 Filed 3-15-91; 8:45 am]
BILLING CODE 4910-13-M

[Summary Notice No. PE-91-12]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. 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 7, 1991.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule 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: Miss Jean Casciano, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9683.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on March 12, 1991.

Deborah Swank,

Acting Manager, Program Management Staff,
Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 22558.

Petitioner: Boeing Commercial Airplane Company.

Sections of the FAR Affected: 14 CFR 47.69(b).

Description of Relief Sought: To extend Exemption No. 3513, which allows operation of aircraft outside the United States using a Dealer's Aircraft Registration Certificate. Exemption No. 3513 will expire on May 1, 1991.

Docket No.: 25091.

Petitioner: Allied-Signal Aerospace, Garrett Engine Division.

Sections of the FAR Affected: 14 CFR 21.325 (b)(1) and (b)(3).

Description of Relief Sought: To extend Exemption No. 4830A, which allows class I, II, and III products that are assembled and tested by Rolls-Royce Limited in East Kilbridge, Scotland, to be eligible for issuance of export airworthiness approvals. Exemption No. 4830A will expire on July 31, 1991.

Docket No.: 25862.

Petitioner: Cessna Aircraft Company.
Sections of the FAR Affected: 14 CFR 47.69(b).

Description of Relief Sought: To extend Exemption No. 5042, which allows operation of aircraft outside the United States using a Dealer's Aircraft Registration Certificate. Exemption No. 5042 will expire on May 2, 1991.

Docket No.: 26470.

Petitioner: Mr. Harry E. McClure dba Aviation Services.

Sections of the FAR Affected: 14 CFR 21.323 (a) and (b).

Description of Relief Sought: To allow a person authorized as a Designated

Airworthiness Representative under Part 183 to issue, without restriction, export approvals for Class III products.

Docket No.: 26473.

Petitioner: Aircraft Owners and Pilots Association.

Sections of the FAR Affected: 14 CFR parts 61, 65, 67, and 91.

Description of Relief Sought: To allow airmen who are participating in "Operation Desert Shield/Storm" to be temporarily exempt from specified currency and inspection requirements. This temporary relief would not exceed 30 days or 5 flight hours in which returning airmen could achieve compliance with the rules.

Docket No.: 26484.

Petitioner: AAR Aircraft Turbine Center, Inc.

Sections of the FAR Affected: 14 CFR 21.325(b)(3).

Description of Relief Sought: To allow export airworthiness tags to be issued for Rolls Royce RB211 products that are located in, but were not manufactured in, the United States.

Dispositions of Petitions

Docket No.: 23901.

Petitioner: General Motors Corporation.

Sections of the FAR Affected: 14 CFR 21.197(a)(1).

Description of Relief Sought/Disposition: To extend Exemption No. 5136, which allows petitioner to operate its Cessna Model 650 airplanes without obtaining a special flight permit when the flaps fail in the up position. *GRANT, February 28, 1991, Exemption No. 5136A.*

Docket No.: 24446.

Petitioner: Air Transport Association of America.

Sections of the FAR Affected: 14 CFR 121.485(b).

Description of Relief Sought/Disposition: To extend Exemption No. 4317, as amended, which allows petitioner's member carriers to conduct flights of less than 12 hours duration with an airplane having an additional crew of three or more pilots and an additional flight crewmember without requiring the rest period to be twice the hours flown since the last at-home-base rest period. *GRANT, February 28, 1991, Exemption No. 4317C.*

Docket No.: 26187.

Petitioner: IASCO.

Sections of the FAR Affected: 14 CFR 145.45(f).

Description of Relief Sought/Disposition: To allow petitioner to keep its manuals in a central location for all required personnel instead of providing a copy of the manual to each of its supervisory and inspection personnel.

GRANT, March 7, 1991, Exemption No. 5283.

Docket No.: 26226.

Petitioner: Horizon Air Industries, Inc., dba Horizon Air.

Sections of the FAR Affected: 14 CFR 121.409(d).

Description of Relief Sought/Disposition: To allow relief from the provision that requires windshear training to be conducted in a simulator for each type of aircraft that the operator uses that is required to have low-level windshear detection equipment installed. *DENIAL, February 28, 1991, Exemption No. 5282.*

Docket No.: 26468.

Petitioner: Stensin Aviation, Inc.

Sections of the FAR Affected: 14 CFR 141.91(a).

Description of Relief Sought/Disposition: To allow the conduct of training at a satellite base located more than 25 nautical miles from the main base of operation. *GRANT, March 7, 1991, Exemption No. 5284.*

Docket No.: 004SW.

Petitioner: Helicopter Association International.

Sections of the CAR Affected: Section 6.488 of CAR Part 6

Description of Relief Sought/Disposition: To allow Sikorsky Model S-58 helicopters with standard airworthiness certificates to operate without an engine compartment fire extinguisher. Approximately 40 aircraft may be affected. *GRANT, February 26, 1991, Exemption No. 5281.*

[FR Doc. 91-6345 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Montour and Northumberland Counties, PA

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 Montour and Northumberland Counties, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Philibert A. Ouellet, District Engineer,
Federal Highway Administration, 228
Walnut Street, P.O. Box 1086,
Harrisburg, Pennsylvania 17108-1086,
telephone: (717) 782-4421.

or

Russell E. Campbell, Project Manager,
Pennsylvania Department of
Transportation, 715 Jordan Avenue,
Montoursville, Pennsylvania 17754-
0218, telephone: (717) 368-4380.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Pennsylvania Department of Transportation (PennDOT) will prepare an Environmental Impact Statement (EIS) to evaluate alternatives for a bridge replacement on Traffic Route 54 across the North Branch of the Susquehanna River between the Boroughs of Danville and Riverside in Montour and Northumberland Counties, Pennsylvania.

The proposed project involves the replacement of a seven span truss bridge within its immediate vicinity between the two boroughs, either slightly upstream or downstream. The bridge is an important link for a vital regional transportation network and provides the only physical tie between Danville and Riverside. A new structure will replace a deteriorating and functionally obsolete bridge.

Three build alternatives will be studied and documented in the EIS. The No-Build Alternative will serve as a baseline for comparison throughout the study. The three build alternatives with a brief description of each are: (1) *Mill Street Upstream Alternative*—This alternative is adjacent to and slightly upstream from the existing bridge and uses both existing bridge approaches in Danville and Riverside. Traffic patterns will remain essentially unchanged; (2) *Factory Street Alternative (With Cut and Cover Section)*—This alternative is downstream from the existing bridge. It ties into the existing approach in Riverside but connects with Factory Street and Continental Boulevard in Danville. Factory Street and Continental Boulevard parallel Mill Street in Danville. The alternative includes a 345 foot long cut and cover section on Factory Street to eliminate the at-grade intersection of Factory and Market Streets; and (3) *Factory Street Alternative (At-Grade with Market Street)*—This alternative has the same alignment as the other Factory Street Alternative but it maintains the Factory Street and Market Street at-grade intersection.

An Environmental Assessment (EA) was prepared and distributed in September 1988. Prior to completion of the EA, four public meetings were held. A public hearing was held on November 2, 1988 to present results of the EA. Following the public hearing, various coordination meetings occurred between FHWA, PennDOT, and environmental

review agencies. As a result of this coordination, a Project Need Evaluation Report was requested and subsequently prepared in July 1990. During a meeting on December 7, 1990 between FHWA and PennDOT to review the needs document, it was determined an EIS should be prepared.

Letters describing the proposed project 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 the project. Public meetings and newsletters are planned during development of the EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed project and the EIS should be directed to either FHWA or PennDOT at the addresses 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 on Federal programs and activities apply to this program.)

Issued on: March 8, 1991.

George L. Hannon,
Assistant Division Administrator, Harrisburg,
PA.

[FR Doc. 91-6366 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Quarterly Public Meeting

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs.

DATES: The Agency's regular, quarterly public meeting relating to the agency's rulemaking, research, and enforcement programs will be held on April 30, 1991, beginning at 10:15 a.m. Questions relating to the agency's rulemaking,

research, and enforcement programs, must be submitted in writing by April 19, 1991. If sufficient time is available, questions received after the April 19 date may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the question(s) to be answered. A consolidated list of the questions submitted by April 19, 1991, and the issues to be discussed will be mailed to interested persons by April 24, 1991, and will be available at the meeting.

ADDRESSES: Questions for the April 30 meeting relating to the agency's rulemaking, research, and enforcement programs or requests to make presentations at the side impact meeting should be submitted to Barry Felrice, Associate Administrator for Rulemaking, room 5401, 400 Seventh Street, SW., Washington, DC 20590. The meeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting to answer questions from the public and industry regarding the agency's rulemaking, research, and enforcement programs on April 30, 1991. The meeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan. The purpose of the meeting is to focus on those phases of NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page upon request to NHTSA Technical Reference Section, room 5108, 400 Seventh Street, SW., Washington, DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4:00 p.m.

To expedite its preparation and mailing of the agenda for the meeting, the agency requests that questions be labeled with the following headings:

- I. Rulemaking
 - A. Crashavoidance
 - B. Crashworthiness
 - C. Other
- II. Research and Development
- III. Enforcement
- IV. Consumer Information
- V. Miscellaneous

Issued on: March 12, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-6275 Filed 3-15-91; 8:45 am]

BILLING CODE 4910-50-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Rev'ew

Date: March 12, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC. 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0137.

Form Number: ATF F 5150.22.

Type of Review: Extension.

Title: Application for an Industrial Alcohol User Permit.

Description: ATF F 5150.22 is used to determine the eligibility of the applicant to engage in certain operations and the extent of the operations for the production and distribution of specially denatured spirits (alcohol/rum). The form identifies the location of the premises and establishes whether the premises will be in conformity with Federal laws and regulations.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 2,250.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,500 hours.

OMB Number: 1512-0250.

Form Number: ATF REC 5110/5.

Type of Review: Extension.

Title: Distilled Spirits Plants (DSP) Transaction and Supporting Data.

Description: Transaction records provid the source data for accounts of distilled spirits in all DSP operations. They are used by DSP proprietors to account for spirits and by ATF to verify

those accounts and consequent tax liabilities.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Recordkeepers: 270.

Estimated Burden Hours Per Recordkeeper: 20 hours.

Frequency of Response: Other (Recordkeeping).

Estimated Total Reporting Burden: 5,400 hours.

OMB Number: 1512-0379.

Form Number: ATF REC 5530/2.

Type of Review: Extension.

Title: Manufacturers of Nonbeverage Products—Records to Support Claims for Drawback.

Description: Data required to be maintained by manufacturers of nonbeverage products are used to verify claims for drawback of taxes and hence, protect the revenue. Maintains accountability; allows tracing of spirits by audit.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 611.

Estimated Burden Hours Per Response/Recordkeeping: 22 hours.

Frequency of Response: Monthly, Quarterly.

Estimated Total Recordkeeping/Reporting Burden: 16,497 hours.

OMB Number: 1512-0466.

Form Number: ATF REC 5170/7.

Type of Review: Extension.

Title: Alternate Methods of Procedures and Emergency Variations From Requirements for Exports of Liquors.

Description: ATF allows exporters of liquors to apply for and receive approval of variances from the requirements of regulations under 27 CFR part 252. ATF uses the application to evaluate need, jeopardy to the revenue and compliance with the law.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 200 hours.

Clearance Officer: Robert Masarsky (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management

and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91-6352 Filed 3-15-91; 8:45 am]

BILLING CODE 4610-31-M

Public Information Collection Requirements Submitted to OMB for Review

Date: March 11, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0017.

Form Number: ATF F 6 part I (5330.3A).

Type of Review: Extension.

Title: Application and Permit for Importation of Firearms, Ammunition and Implements of War.

Description: This information collection is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. Used to secure authorization to import such articles for all persons who desire to import such articles except for persons who are members of the United States Armed Forces.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 9,000.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,500 hours.

OMB Number: 1512-0215.

Form Number: ATF F 5110.75.

Type of Review: Extension.

Title: Alcohol Fuel Plants (AFP) Records, Reports and Notices.

Description: Data is necessary (1) to determine that persons are qualified to produce alcohol for fuel purposes and to identify such persons, (2) to account for

distilled spirits produced and verify its proper disposition and (3) to keep registrations current and evaluate permissible variations from prescribed procedures.

Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 1,752.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Quarterly (Large), Semi-annually (Medium); Annually (Small).

Estimated Total Reporting Burden: 1,917 hours.

Clearance Officer: Robert Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue NW., Washington, DC 20226.

OMB Reviewers: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503. Lois K. Holland,

Departmental Reports, Management Officer. [FR Doc. 91-6353 Filed 3-15-91; 8:45 am]

BILLING CODE 4810-31-M

Public Information Collection Requirements Submitted to OMB for Review

Date: March 12, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New Collection.

Title: Focus Group Interviews Concerning the IRS Instructional Videotape.

Description: These focus group interviews are necessary to evaluate how effective the IRS Instructional Videotape is in assisting taxpayers to prepare their tax return in addition to identifying areas which require change.

These results will provide guidance for further improvements to the videotape.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Response: 2 hours, 5 minutes.

Frequency of Response: One-time focus groups.

Estimated Total Reporting Burden: 283 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503. Lois K. Holland,

Departmental Reports, Management Officer. [FR Doc. 91-6354 Filed 3-15-91; 8:45 am]

BILLING CODE 4830-01-M

Customs Service

Proposed Changes in the Sampling Rate of Bulk Raw Sugar

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of proposed changes in sampling rate of bulk raw sugar.

SUMMARY: This document proposes to change the sampling rate of bulk raw sugar from the required one sample for each 700,000 pounds of dutiable raw sugar to one sample for every 2,100,000 pounds. Customs is proposing this change because laboratory data shows that less frequent sampling will be adequate for Customs purposes.

DATES: Comment must be received on or before May 2, 1991.

COMMENTS: Written comments (preferably in triplicate) may be addressed to and inspected at the Office of Laboratories and Scientific Services, room 7113, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Karl, Office of Laboratories and Scientific Services, 202-566-2446.

SUPPLEMENTARY INFORMATION:

Background

At the present time bulk raw sugar is sampled according to Customs Directive 3230-18, "Guidelines for the Sampling and Testing of Dutiable Raw Sugar" dated January 10, 1989. This directive states that the sampling rate shall be one sample for each 700,000 pounds of dutiable raw sugar. Customs is proposing that this rate be changed to

one sample for every 2,100,000 pounds. Customs is proposing this change because laboratory analyses on 700,000 pounds samples show that there is sufficient uniformity within sugar shipments to adequately determine the landed quantity using the lower sampling rate of one sample per 2,100,000 pounds.

At the same time, however, it is recognized that the present sampling rate of one sample for each 700,000 pounds of raw sugar is in alignment with the sampling rate used by many importers for settlement and other purposes. In addition, the automatic sampling equipment used in most sugar unloading operations are set for that rate and the ability to change to a different rate or multiple rates needs to be determined.

Accordingly, before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Laboratories and Scientific Services, room 7113, U.S. Customs Service Headquarters, 1301 Constitution Avenue NW., Washington, DC 20229.

Dated: March 12, 1991.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 91-6282 Filed 3-15-91; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the

information collection, if applicable; (6) who will be required 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 April 17, 1991.

Dated: March 11, 1991.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Veterans Benefits Administration.
2. Report of Automatic Manufacture Home and/or Lot Loan.
3. VA Form 26-8149.
4. The form is used by lenders authorized to make manufactured home and/or lot loans on the automatic basis. The information is used by VA to

determine that all requirements are met before issuing evidence of guaranty.

5. On occasion.
6. Businesses or other for-profit; small businesses or organizations.
7. 460 responses.
8. 30 minutes.
9. Not applicable.

[FR Doc. 91-6360 Filed 3-15-91; 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 April 17, 1991.

Dated: March 11, 1991.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Veterans Benefits Administration.
2. Interest Rate Reduction Refinancing Loan Worksheet.
3. VA Form 26-8923.
4. The form is used by lenders for completing the funding fee and maximum permissible loan amounts for interest rate reduction refinancing loans to veterans.
5. On occasion.
6. Businesses or other for-profit.
7. 9,507 responses.
8. 10 minutes.
9. Not applicable.

[FR Doc. 91-6361 Filed 3-15-91; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 56, No. 52

Monday, March 18, 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).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 2:30 p.m., Wednesday, March 20, 1991.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Crib Corner Posts (HP 90-1).

The staff will brief the Commission on petition HP 90-1 from the The Danny Foundation which requests the Commission to amend the mandatory crib regulations to ban any crib having a corner post extending above the top edge of the end panel or any other "catch point" on which a cord around a child's neck, a shirt strap, or clothing could become entangled.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 492-6800.

Dated: March 12, 1991.

Sadye Dunn,

Secretary.

[FR Doc. 91-6429 Filed 3-14-91; 10:57 am]

BILLING CODE 6355-01-M

FEDERAL COMMUNICATIONS COMMISSION

March 13, 1991.

Deletion of Agenda Item From March 14th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the March 14, 1991, Open Meeting and previously listed in the Commission's Notice of March 7, 1991.

Item No., Bureau, and Subject

3—Mass Media—*Title:* Evaluation of the Syndication and Financial Interest Rules (MM Docket No. 90-162). *Summary:* The Commission will consider whether to revise its Network Television Syndication and Financial Interest Rules.

Issued: March 13, 1991.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-6437 Filed 3-14-91; 12:10 pm]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Friday, March 22, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meetings.

Dated: March 14, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-6520 Filed 3-14-91; 3:59 pm]

BILLING CODE 6210-01-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, April 3, 1991.

PLACE: Board Hearing Room 8th Floor, 1425 K. Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of March, 1991.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. William A. Gill, Jr., Executive Director, Tel: (202) 523-5920.

Date of Notice: March 11, 1991.

William A. Gill, Jr.,

Executive Director, National Mediation Board.

[FR Doc. 91-6436 Filed 3-14-91; 10:57 am]

BILLING CODE 7550-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: [56 FR 10300 March 11, 1991].

STATUS: Closed.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, March 6, 1991.

CHANGE IN THE MEETING: Canceled:

A closed meeting scheduled for Tuesday, March 12, 1991, at 2:30 p.m. was canceled.

Commissioner Roberts, as duty officer, determined that Commission business required the above change.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Daniel Gray at (202) 272-2300.

Dated: March 13, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-6518 Filed 3-14-91; 3:59 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of March 18, 1991.

A closed meeting will be held on Tuesday, March 19, 1991, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(A) and (10)

and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 19, 1991, at 2:30 p.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Formal orders of investigation.

Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald Mueller at (202) 272-2200.

Dated: March 13, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-6519 Filed 3-14-91; 3:59 pm]

BILLING CODE 8010-01-M

Federal Register

Monday
March 18, 1991

Part II

Department of Transportation

Research and Special Programs
Administration

49 CFR Parts 191 and 192
Transportation of Hydrogen Sulfide by
Pipeline; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration

49 CFR Parts 191 and 192

(Docket No. 106; Notice 2)

RIN 2137-AB63

Transportation of Hydrogen Sulfide by
Pipeline**AGENCY:** Research and Special Programs Administration (RSPA), U.S. Department of Transportation (DOT).**ACTION:** Notice of proposed rulemaking (NPRM).**SUMMARY:** This notice proposes regulations to control the concentration of hydrogen sulfide (H₂S) in natural gas pipeline systems because high concentrations of H₂S are extremely toxic if released. The proposed rule would:

(a) Prohibit operators from transporting in a transmission line downstream of gas processing plants, sulfur recovery plants, or storage fields, natural gas containing more than 1 grain of hydrogen sulfide (H₂S) per 100 standard cubic feet (SCF) of natural gas;

(b) Require that the release of H₂S in excess of 20 grains per 100 SCF of natural gas into a transmission line be telephonically reported to DOT; and

(c) Require that onshore and offshore gathering lines carrying H₂S in excess of 31 grains per 100 SCF of natural gas have a contingency plan in case of the release of the gas into the atmosphere.

DATES: Interested parties are invited to submit comments by June 17, 1991.**ADDRESSES:** Send comments in duplicate to the Dockets Unit, room 8417, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice numbers stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in room 8426 between 8:30 a.m. and 5 p.m. each business day.**FOR FURTHER INFORMATION CONTACT:** Cesar De Leon (202) 366-4583, regarding the subject matter of this document, or the Dockets Unit (202) 366-5046, for copies of this document or other material in the docket.**SUPPLEMENTARY INFORMATION:****Background**

The RSPA issued an Advance Notice of Proposed Rulemaking (ANPRM) on June 7, 1989 (54 FR 24361) requesting information to assist RSPA to determine

the need for regulations to control the concentration of hydrogen sulfide in natural gas pipeline systems. Hydrogen sulfide is a colorless, flammable gas which is poisonous if inhaled. It is considered to be hazardous to life and health at concentrations of 300 parts per million (ppm). At concentrations of 1,000 ppm in air it causes immediate unconsciousness and death. The Occupational Safety and Health Administration (OSHA) has established an upper concentration level of 10 ppm for prolonged (8 hours) work place exposure to H₂S.

Natural gas produced from some gas production wells has high concentrations of H₂S. For example, a gas production field that has some of the highest H₂S concentrations in the country is the Mary Ann Field in Mobile Bay in Alabama which produces natural gas averaging 7½ percent or 75,000 ppm of H₂S. Gas with high concentrations of H₂S, commonly called "sour gas", is "sweetened" by removing the H₂S from the natural gas in treatment plants before the natural gas is introduced into gas transmission pipelines.

At present, the federal gas pipeline safety regulations, 49 CFR part 192, do not specifically address the risk to the public of being exposed to the toxic effects of H₂S due to its presence in natural gas pipelines. The current regulations in 49 CFR part 192 address H₂S only with respect to its corrosive effects on pipelines, as follows:

- 49 CFR 192.125(d) requires that copper pipe that does not have an internal corrosion resistant lining may not be used to carry gas that has an average hydrogen sulfide content of more than 0.3 grains per 100 standard cubic feet of gas.
- 49 CFR 192.475 requires that corrosive gas may not be transported by pipeline unless the corrosive effect of the gas on the pipeline has been investigated and steps have been taken to minimize internal corrosion. In addition gas containing more than 0.1 grain of hydrogen sulfide per 100 standard cubic feet may not be stored in pipe-type or bottle-type holders.
- 49 CFR 195.418 requires that no operator may transport any hazardous liquid that would corrode the pipe or other pipeline components unless it has investigated the corrosive effect and taken steps to mitigate corrosion.

The ANPRM set forth many incidents that have occurred in California, Texas, and Canada in which H₂S had gotten past gas treatment plants and gotten into gas transmission and even into distribution systems.

The ANPRM also set forth state regulations in Texas, Michigan, and California addressing the occurrence of high concentrations of H₂S in pipelines, many of which would have been mitigated if appropriate Federal regulations had been in place. One incident occurred on December 28, 1988, when the Pacific Offshore Pipeline Company's (POPCO) Las Flores Canyon Treatment Plant was placed in service. Due to the failure of an automatic gas analyzer, gas was contaminated by 200 PPM of H₂S and entered the distribution system of Southern California Gas Company (SCG). After the analyzer was repaired following the interruption of gas flow, the gas flow was reinitiated. Further analysis indicated 16 PPM H₂S in the gas stream and the gas flow was again stopped.

Another incident involving H₂S entering the SCG system occurred on May 12, 1984, at the Wilmington, California, gas delivery plant. Following this incident, the California Public Utilities Commission (PUC) requested that all SCG locations that could receive contaminated gas be equipped with gas analyzers. As a result of these incidents in California, the California PUC has required that gas supply be monitored by automatic equipment at gas supply points.

On August 11, 1987, automatic H₂S monitoring equipment at the KG Gas Processors, Limited, near Winston, Texas, indicated that an excessive amount of H₂S was being delivered to Lone Star Gas Company. Gas company personnel found H₂S in concentrations of 1600 PPM and greater and purged the entire system. The excessive concentrations of H₂S were not detected because automatic shut-off equipment at KG had failed to operate in response to the automatic monitor and Lone Star's monitoring equipment had been removed for repair at that time. From its review of Lone Star's records NTSB found that since 1977, 11 incidents involving the release of excessive quantities of H₂S into its pipeline system had occurred.

As a result of a review of several incidents involving the release of excessive quantities of H₂S into pipeline systems, on May 10, 1988, by letter to the Administrator of RSPA, the National Transportation Safety Board (NTSB) recommended that RSPA:

- (1) Establish, based on known toxicological data, a maximum allowable concentration of H₂S in natural gas pipeline systems, and amend 49 CFR part 192 to reflect this determination. (P-88-1; Class II, Priority Action)

(2) Revise 49 CFR part 191 to require that pipeline operators report all incidents in which concentrations of H₂S in excess of the maximum allowable concentration are introduced into pipeline systems that transport natural gas intended for domestic or commercial purposes. (P-88-2; Class III, Longer-Term Action)

(3) Require gas pipeline operators to install on their systems equipment capable of automatically detecting and shutting off the flow of gas when the maximum allowable concentrations of H₂S-contaminated gas are exceeded. (P-88-3; Class III, Longer-Term Action)

Because RSPA has no current regulations that require the monitoring of maximum H₂S concentration in gas pipeline systems, RSPA requested information in the ANPRM to appropriately assess the need for establishing such regulations.

Interested parties were invited to answer the following questions and submit relevant information including any accident experience (if applicable) associated with H₂S release(s):

(1) What factors should be considered in determining the need for a maximum allowable concentration of H₂S in natural gas pipeline systems? What should this concentration be?

(2) Describe events you know of in which H₂S has been released from, or into, a pipeline in dangerous amounts and what were the H₂S concentrations? What were the consequences of such releases? What would be the burden associated with mandatory reporting of such events?

(3) If you are an operator receiving gas from a producer, do you have automatic H₂S detection and shut-off equipment? Do these devices operate reliably? For such operators that do not have this equipment, what costs and other burdens can be associated with requiring use of the equipment?

(4) Which pipelines transporting sour gas should be subject to an H₂S monitoring requirement? Should rural gas gathering lines be subjected to H₂S monitoring requirements, even though they are not now subject to any of the part 192 safety standards?

As a result of a review of the comments, RSPA believes that regulatory action is required to address the hazards from the accidental release of natural gas having excess quantities of H₂S. There are increasing numbers of natural gas production fields producing sour gas that could be released into transmission pipelines thereby creating a hazard to people that live along the pipeline, as well as possibly entering distribution systems. In addition, there are many gathering lines in onshore non-

rural areas which are transporting highly toxic sour gas which put at risk the people living in close proximity to those pipelines. Offshore gathering lines carrying sour gas equally put workers at risk on offshore platforms. The inhalation by the workers to the sour gas from the offshore Mary Ann Field in Mobile Bay in Alabama could result in immediate death. Appropriate regulations established now should minimize the hazards from future releases of sour gas into transmission lines, as well as provide contingency plans for the accidental release of sour gas into the atmosphere from onshore and offshore gathering lines.

Discussion of Comments

The RSPA received 54 comments, principally from natural gas and hazardous liquid pipeline operators. There were also comments from two private citizens, two state regulatory agencies, the Minerals Management Service (MMS) of Department of the Interior, and five natural gas and hazardous liquid trade associations.

In addition to responding to the specific questions, there were many commenters that set forth general comments on the need to issue regulations to control the concentration of H₂S in natural gas pipeline systems. The following is a discussion of general comments received on the ANPRM.

General Comments

Two private citizens are opposed to the presence of H₂S in pipelines because of the possibility of its release. One commenter lives near a production well and associated gas gathering lines that transport natural gas with H₂S and addresses her comments to Question 4. The other commenter complains of the smell of H₂S and also comments that the H₂S in these wells has resulted in the death of dogs and cattle. She argues that there should be restrictions on how close to homes a company may install an H₂S pipeline.

La Clede Gas Company supported the issuance of regulations to establish a maximum concentration of H₂S in pipeline systems to provide safety of the natural gas consumer and protect the integrity of the system.

The MMS supports the recommendations made by the NTSB. The DOI supports a rule similar to that proposed by California General Order 58. Order 58 proposes that no gas supplied by any gas utility shall contain more than 0.75 grains of H₂S per 100 SCF of natural gas. (1 grain of H₂S per 100 SCF is equal to 15.9 ppm of H₂S. In addition, MMS supports the required installation of H₂S monitoring

equipment in these pipelines for detection and shutoff flow of gas when the maximum allowable concentration of H₂S is exceeded.

H₂S monitoring equipment and gas purchase contracts use "grains per 100 SCF" as a standard unit of H₂S measurement in natural gas rather than "ppm of H₂S". Most state regulations regarding H₂S similarly use "grains per 100 SCF" as a standard unit of H₂S measurement in natural gas.

The Texas Railroad Commission, identified by most industry commenters as having adequate regulations addressing high concentrations of H₂S in gas pipelines, stated that RSPA should not extend regulations for H₂S to gathering lines in Texas because those lines were covered by the Texas Railroad Commission under Rule 36 entitled "Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas." The Commission also believed that regulations addressing H₂S should only be made applicable to pipeline operators that transport or transfer gas requiring H₂S treatment.

Most industry commenters were opposed to any regulations addressing H₂S in pipelines. Panhandle Eastern Corporation commented that such rulemaking is ill-advised and unwarranted because there exists sufficient requirements in 49 CFR part 192 to adequately address the issues raised. The American Gas Association (AGA) and United Gas Pipe Line Company, among others, thought that the producer of natural gas, rather than the transmission pipeline operator or distribution operator, should be responsible for monitoring the concentration of H₂S in the gas. The AGA, Interstate Natural Gas Association of America (INGAA), the American Petroleum Institute (API), and many operators stated their opposition to mandatory monitoring of H₂S concentrations with automatic shutdown capability. Many of these commenters argued that removal of H₂S or treatment to acceptable levels is the responsibility of the producer as specified in gas purchase contracts. They also mentioned the possibility of false closures which would interrupt service to customers unnecessarily if the monitoring equipment is located on the distribution system.

The Gas Processors Association (GPA), which represents about 170 corporate members which process about 90 percent of all natural gas in the country, opposes a maximum allowable concentration of H₂S in natural gas pipeline systems. The GPA argues that contracts that limit the concentration of

H₂S in natural gas delivered to transmission pipelines protect customers and problems are rare. The GPA further states that the responsibility of preventing H₂S gas from reaching domestic customers should rest in the hands of the distribution company not with the gas producer, gas processor, or gas transmission company. The GPA further points out that although pipeline upsets which cause H₂S to enter the transmission system are undesirable, they are unlikely to have a significant affect because of dilution due to comingling further downstream in the transmission system.

The Pacific Gas and Electric Company (PG&E) takes issue with the statement in the ANPRM that the California Public Utility Commission (PUC) requires that its previously determined upper limit of H₂S be monitored by automatic equipment on a daily basis at gas supply points. The PG&E understands that the California PUC required Southern California Gas Company to install automatic H₂S monitors and automatic shutoff devices at locations where H₂S contaminated gas could enter the gas system. The Southern California Gas Company recommended that the Department only require monitoring of H₂S levels at the custody transfer point where contaminated gas is received from the gas producer rather than throughout the operator's pipeline system.

Amoco Gas Company did not support NTSB's recommendation that RSPA establish a maximum allowable concentration of H₂S in natural gas pipelines for the following three reasons. First, the natural gas purchaser by contract dictates the maximum allowable concentration of H₂S. The pipeline operator and end user are aware of the end user's risk of exposure to H₂S and have taken their own precautions by contract. Second, having established a contract maximum and in accordance with 49 CFR 192.475(a), operators design their pipelines and components to handle the concentration specified by the contract. When a system is properly designed and operated, the probability of a leak is equal to or less than a line that does not transport H₂S contaminated gas. Third, a regulation limiting the amount of H₂S in pipeline systems would not have prevented any of the incidents reported by the NTSB in this notice because each of the incidents was the result of two or more independent equipment failures.

The Town of Bay Springs, Mississippi, commented that attention should be focused on producers and transmission

pipelines so that there would be no need to have H₂S detection and automatic shut-off systems for local distribution companies. The Northern Illinois Gas Company commented that the present regulations have served their intended purposes appropriately and the concentration of H₂S in gas pipelines are engineering and business matters between the responsible operator and his supplier.

RSPA Comments

Arguments by some operators that regulations are not needed because they have contractual requirements that limit the amount H₂S in pipelines are not persuasive. If contractual responsibilities were the only control, a release of excessive quantities of H₂S into pipelines would only result in a violation of a contract. Public safety would be better served by a Federal regulation that sets a limit of H₂S in pipelines. A violation of such regulations could result in penalties. Furthermore, this requirement would not impose unreasonable burdens, since concentration levels of H₂S are routinely considered in the industry.

Further, the current requirements do not address the toxic effects of H₂S as alleged by many commenters. Sections 192.125, 192.475, and 192.418 are targeted at preventing corrosive effects of H₂S in pipelines.

With regard to the private citizens that appealed for restrictions on how close to homes a company may install an H₂S pipeline, the Natural Gas Pipeline Safety Act precludes establishing location or routing of pipelines by the regulations issued thereunder (49 app. U.S.C. 1671(4)). The location and route of a pipeline is handled better at the local level. From the description of the pipeline located near to their houses, it appears that the private citizens lived near gathering lines. Gathering lines are further discussed in Question No. 4.

Other general comments are addressed below in the RSPA comments to the public comments to the four questions set forth in the ANPRM.

The following sets forth the comments to each of the questions posed in the ANPRM:

Question 1: What factors should be considered in determining the need for a maximum allowable concentration of H₂S in natural gas pipeline systems? What should this concentration be?

Comments: A wide variety of comments were received regarding the factors that should be considered in determining the need for a maximum allowable concentration of H₂S in natural gas pipeline systems. Phillips

Petroleum Company suggested the following factors:

- a. Flow rate.
- b. Operating pressure.
- c. Operating temperature.
- d. H₂S and H₂O concentration.
- e. Presence of CO₂ and other contaminants.
- f. Presence of hydrocarbon liquids.
- g. Prevailing weather conditions.
- h. Population density.
- i. Material specifications.
- j. Use of inhibitors.
- k. Gathering vs. transmission functions.

Southern Natural Gas Pipeline Company suggested the following factors:

- a. Potential for H₂S to be present in the system.
- b. Detrimental effects H₂S on pipe and appurtenances.
- c. Natural gas end use requirements.
- d. Potential exposure to company employees.
- e. Potential exposure to the public/property in proximity of that pipeline system.

The AGA suggested the following factors:

- a. Whether the particular system will experience high concentrations of sour gas for a period of time to create a safety problem.
- b. Identification of delivery points that have the ability to contain high concentrations of sour gas.
- c. Degree of danger presented to the public and employees of gas companies because of the toxicity of sour gas.
- d. Effect of the gas stream on materials used in the pipeline system.
- e. Stress level at the pipeline's maximum allowable operating pressure.
- f. Class location.
- g. Other impurities.

The INGAA proposed the following factors:

- a. Type and grade of pipe exposed to H₂S.
- b. Other impurities in the gas stream (moisture and carbon dioxide).
- c. Volume of gas containing H₂S vs. volume of gas in the transmission pipeline.
- d. Existing standards such as NACE MR-01-75 and API RP 14E.
- e. Availability and use of inhibitors.
- f. Health effects on company employees, the public, and the consumer.
- g. Potential detrimental effect on the pipeline system.
- h. Population density along the pipeline route.
- i. The stress level at the pipeline's MAOP.

j. Purpose of the pipeline (gathering, transmission, or distribution).

The Columbia Gas Distribution Companies stated that the factors can be focused on two major issues:

a. The safety of employees, customers, and the general public who have the potential of exposure to the gas stream under normal and emergency conditions.

b. Operating or maintenance difficulties in the pipeline system caused by undesirable constituents.

The Independent Petroleum Association of America (IPAA) stated that the main factor to be considered in determining the need for a maximum allowable concentration for H₂S in natural gas pipeline systems is the immediate destination of the gas. Additionally, the following factors should be considered:

a. Population density surrounding pipelines.

b. Leak history.

c. Design criteria.

d. Performance of proper maintenance.

e. Construction techniques.

f. Welding procedures.

g. Age of pipelines.

h. Type of internal corrosion mitigation currently on pipelines.

i. Maximum allowable operating pressure of the pipelines.

j. Distance of isolation valves on the pipelines.

k. Number of employees per mile of pipe to maintain the pipelines.

Many commenters expressed a view regarding the concentration of H₂S that should be allowed in natural gas pipeline systems. The range covered by most commenters was from 0.25 to 1 grain of H₂S per 100 SCF of the natural gas or between 4 and 16 ppm. The gas producers and transmission operators favored the upper limit or grain of H₂S per 100 SCF of natural gas while most distribution operators suggested the lower limit or 0.25 grain of H₂S per 100 SCF of natural gas. Mobil Pipe Line Company commented that the limits should be 0.25–0.30 grains of H₂S per 100 SCF of natural gas, limits that are under consideration for legislation in Michigan and California. Warren Petroleum Company commented that the maximum allowable concentration of H₂S carried through a pipeline must be unlimited but states that the company has a plan to comply with the Texas Railroad Commission Rule 36 requiring a contingency plan for pipelines carrying gas containing H₂S in concentrations of 100 ppm and greater.

Transcontinental Gas Pipeline Corporation (Transco) and INGAA commented that any rule change concerning the allowable limits of H₂S

should provide for the "grandfathering" of existing gas purchase contracts.

RSPA Comments

The commenters presented many excellent suggestions on the factors that should be considered in determining the maximum allowable concentration of H₂S in natural gas pipeline systems. The suggested factors, as can be seen above, covered a wide spectrum of criteria. The RSPA has included factors proposed by some of the commenters that represent practically all of the factors proposed by commenters to this ANPRM. These factors should be of use to commenters in commenting on the proposals discussed below for establishing the maximum allowable concentration of H₂S in natural gas pipeline systems.

As a minimum, the range of limits for H₂S set forth by most of the commenters should not be exceeded in light of the toxic effects of natural gas containing H₂S that exceeds such limits. The RSPA believes that an upper limit of 1 grain of H₂S / 100 SCF of natural gas is appropriate because it is consistent with the limit set by OSHA and several states. Many commenters supported that limit to be the maximum concentration of H₂S in natural gas pipelines. One grain of H₂S / 100 SCF of natural gas is about 16 ppm of H₂S in natural gas, which is slightly in excess of the 10 ppm concentration permitted by OSHA for prolonged (8 hours) workplace exposure. In addition, such a limit would not affect existing gas purchase contracts because 1 grain of H₂S / 100 SCF of natural gas is the upper limit for gas contracts according to commenters.

Question 2: Describe events you know of in which H₂S has been released from, or into, a pipeline in dangerous amounts and what were the H₂S concentrations? What were the consequences of such releases? What would be the burden associated with mandatory reporting of such events?

Comments: Many companies reported events in which H₂S was released into a pipeline in dangerous amounts but most of the companies indicated that the H₂S was diluted further downstream. The AGA indicated that such releases do not appear to be significant, widespread, or a recurring problem. The AGA reported one instance in which the release was 2,000 ppm. The IPAA indicated several situations that may present a potential for a release of H₂S from a pipeline or into a pipeline, and then included procedures to prevent such releases. Tenneco indicated several instances where a treatment facility failed to reduce H₂S to the contract requirement level but the H₂S was diluted further downstream. The GPA also pointed out

that while gas containing H₂S that exceeds the contract limits may enter the transmission line, the gas is unlikely to have a significant effect because of dilution due to co-mingling in the transmission system.

With regard to the question regarding the burden associated with mandatory reporting of such events, many industry commenters questioned how reporting of these incidents would increase public safety and what, if any, benefits could be derived from the reports. Most distribution system operators indicated little or no burden because most had never had excessive concentrations of H₂S in those systems. Many transmission operators also indicated little burden with reporting excessive amounts of H₂S in transmission pipelines. The AGA, Columbia Gas-Transmission, and Colorado Interstate observed that the burden would depend on the scope and depth of the reporting requirements. Columbia Gas-Distribution commented that it would be reasonable to report incidents using criteria similar to pipeline failure incidents where death or injury, extensive property damage, and media coverage are involved. Northern Indiana Public Service Company commented that the reporting burden would result in \$484,000 of capital costs and \$105,000 annual costs. Consumers Power stated that it believed that a reporting trigger of 300 ppm or over of H₂S would cause a relatively light reporting burden. There were several commenters, especially those operating closer to the source of gas, such as GPA and Equitable Resources, that indicated there would be a reporting burden.

RSPA Comments

The comments indicate that the releases of H₂S into pipeline systems has not been a widespread, significant, or recurring problem. Nonetheless, a release of an excessive amount of H₂S into a pipeline system may result in a hazardous situation if a leak in the line carrying the higher concentration of H₂S escapes from the line before the gas is burned. Such releases have occurred, and the gas with high concentrations of H₂S has been released into distribution systems. The gas was not diluted as indicated by some commenters. RSPA believes that a reporting requirement is also needed to determine if the release of excessive amounts of H₂S into transmission pipelines is a problem. The proposed reporting threshold for H₂S releases in this NPRM is set sufficiently high to gain information only where dangerous amounts of H₂S have been released into transmission pipelines.

The proposed threshold for reporting is 20 grains of H₂S / 100 SCF of natural gas, or over 300 ppm.

Question 3: If you are an operator receiving gas from a producer, do you have automatic H₂S detection and shut-off equipment? Do these devices work reliably? For such operators that do not have this equipment, what costs and other burdens can be associated with requiring use of the equipment?

Comments:

Practically all of the operators that received gas from a producer, such as Tenneco Gas, Corp., Midcon, Panhandle Eastern Corporation, Questar Pipeline Co., Transco, Texaco USA, Delhi Gas Pipeline Corp., and Northwest Pipeline Corp., had either monitoring or automatic shutoff H₂S detection equipment. Most of these operators indicated that the equipment operated reliably. Only two commenters, Tenneco and Columbia Gas-Transmission, indicated that the equipment was not reliable. Most operators that had equipment indicated a cost of \$10,000 to \$30,000 per installation. Two significant departures from this range were Northwest that indicated that a gas chromatograph analyzer would cost \$14,000 to \$45,000 per installation and Midcon indicated up to \$45,000 per installation. IPAA and INGAA indicated that the annual operating and maintenance cost reported by their operators was about \$1,500 per installation. However, Southern California Gas reported \$3,000 in annual operating and maintenance costs; Questar indicated \$1,000 in monthly operating costs; and Phillips Petroleum reported \$2,000 in monthly operating and maintenance costs. PG&E reported unspecified low maintenance costs. Northern Indiana, a distribution company, stated that it would cost \$494,000 to install equipment for their entire system and that it would cost \$105,000 annually to operate and maintain the equipment.

RSPA Comments

RSPA believes that high concentrations of H₂S should be removed from the gas before it is delivered to the transmission pipeline to ensure public safety. Under the requirements proposed in this Notice, RSPA would limit the amount of H₂S in natural gas in transmission lines, thereby establishing a limit of H₂S where gas is delivered to the transmission operator. This will put the burden on the producer or the operator of the processing plant to provide gas that does not contain high concentrations of H₂S to the transmission pipeline. The limitation of

the high concentration of H₂S is not aimed at the distribution system because this would allow transmission lines to transport gas with high concentrations of H₂S thereby creating a hazard to people living near a transmission pipeline.

RSPA has not specified the type of equipment necessary to meet this proposed requirement. The comments indicate that many operators receiving gas from a producer have automatic H₂S detection and shut-off equipment and that these devices work reliably. RSPA believes that the operator should make the decision on the type of equipment it will use in complying with this proposed requirement.

RSPA has used the cost figures of H₂S detection and shut-off equipment acquired in the comments to the ANPRM to assess the relative costs in having the industry comply with this proposed requirement.

Question 4: Which pipelines transporting sour gas should be subject to an H₂S monitoring requirement? Should rural gas gathering lines be subject to H₂S monitoring requirements, even though they are not now subject to any of the part 192 safety standards?

Comments: With regard to the question of which pipelines transporting sour gas should be subject to an H₂S monitoring requirement, very few commenters thought that such lines should not be monitored. However, Transco argued that although sour gas pipelines usually contain extremely corrosive gas (more than 300 ppm), these lines are designed and maintained to accommodate the corrosive effects of high concentration of H₂S. Therefore, monitoring would serve no useful purpose. Chevron Pipe Line Company commented similarly.

Washington Gas Light Company commented that monitoring of H₂S should occur at the point of origin or the closest point to the source and not require redundant monitoring at distribution systems. PG&E and United Gas Pipe Line Company commented similarly, stating that the monitoring should be required at the point of delivery when (1) the source gas has been processed for H₂S removal and (2) the source gas (before processing) contains unacceptably high levels of H₂S which the downstream pipeline system is not designed to handle. Mountain Fuel Supply Company believes that operators transporting sour gas that are presently under the jurisdiction of DOT should have the responsibility of insuring pipeline quality of gas, including H₂S monitoring. IPAA and Delhi Gas Pipeline Corporation suggested that only those pipelines with known H₂S gas that

deliver into a distribution system downstream of a treating facility should be subject to an H₂S monitoring requirement. Texaco commented that any monitoring should be directed at gas distribution operators who supply gas for consumer use.

With regard to the question of whether rural gas gathering lines should be subject to H₂S monitoring, most commenters were opposed to the idea. Phillips Petroleum Company commented that gathering lines routinely transport volumes of very sour gas because this is a normal part of gas gathering operations and these lines should not be subject to H₂S monitoring equipment. The AGA commented that gathering lines in sour gas service are designed and maintained to accommodate the corrosive effects of high concentrations of H₂S and that these lines are adequately regulated by state regulations in states having sour gas production. The IPAA made the same arguments as AGA and further commented that monitoring equipment should be located at the point at which gas enters a transmission line or distribution system after which no further treatment of gas occurs. Conoco, Inc., while disagreeing with the noncompliance procedures, generally agrees with the technical requirements and limitations of a Bureau of Land Management proposal (54 FR 21075; May 16, 1989) for H₂S monitoring for Federal and Indian leases. The GPA stated that the regulation of H₂S in gathering lines is impractical as these pipelines are generally upstream of the gas processing facilities which remove the H₂S. If a maximum allowable concentration in gas gathering pipelines is established many sour gas fields may be forced to shut down. The IPAA had similar views as those set forth above. Several commenters stated that the contingency plan required by the Texas Railroad Commission for gathering lines having excessive amounts of H₂S is a good regulatory approach.

The MMS commented that the hazard of an accidental injection of H₂S in a pipeline system in populated areas is sufficient justification for requiring H₂S monitoring equipment on any pipeline where any connecting pipeline delivers gas that has been treated to remove H₂S prior to injection.

RSPA Comments

The RSPA agrees with most commenters that the monitoring should be conducted at the interface between the gathering line and a transmission line, immediately downstream of the point where the gas has been treated for

H₂S removal. The RSPA believes that this is the appropriate point to detect the possible failure of the treatment equipment for H₂S removal. If the monitoring is accomplished at this point, there will not be any need to monitor for H₂S farther downstream at the point of delivery to a distribution system as some commenters suggested. The RSPA also agrees with those commenters that argued that there was no need for monitoring equipment when the transmission pipelines are not receiving natural gas that may be subject to H₂S contamination. The proposed regulation states that no operator may transport in a transmission line natural gas containing more than 1 grain of H₂S per 100 SCF of natural gas (15.9 ppm of H₂S in natural gas). Therefore, if the transmission pipeline is not receiving gas that has been subject to H₂S contamination, monitoring equipment would not be required.

The RSPA also agrees with those commenters who stated that the regulation of H₂S in gathering lines is impractical as these pipelines are generally upstream of the gas processing facilities which remove the gas. However, some of the gathering lines are currently subject to part 192 regulations because the lines are offshore or are onshore gathering lines within the limits of any incorporated or unincorporated city, town, or village; or within a designated residential or commercial area, such as a subdivision, business, or shopping center, or community development. Persons in such non-rural areas having gathering lines with high concentrations of H₂S should also be afforded protection against the possible release of H₂S. Similarly, personnel on offshore platforms that have gathering lines should also be protected against the possible release of H₂S.

Consequently, while RSPA is proposing that these gathering lines be excepted from the limitation of H₂S that can be transported in transmission lines, the RSPA is proposing that pipeline operators develop a contingency plan in case of the release of H₂S into the atmosphere for gathering lines which transport H₂S in excess of 31 grains per 100 SCF of natural gas (about 500 ppm) in nonrural areas and on offshore platforms. The proposed contingency plan for onshore gathering lines is based on the contingency plan requirements in Rule 36 issued by the Texas Railroad Commission which requires different contingency plans at 100 ppm and 500 ppm, as well as emergency plan requirements in part 192. It should be noted that a state may adopt more

stringent standards for gathering lines that are compatible with the federal standards. Therefore, the contingency plan of the Texas Railroad Commission and other state contingency plans would still apply, if they are more stringent and do not conflict with this proposed requirement. The proposed contingency plan for offshore gathering lines is based on emergency plan requirements in part 192 to the extent that such requirements are applicable on offshore platforms.

Paperwork Reduction Act

The proposed information collection requirement under §§ 192.27 and 192.637 (contingency plan) have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). Persons desiring to comment on these information collection requirements should submit their comments to the Office of Regulatory Policy, Office of Management and Budget, 728 Jackson Place, NW., Washington, DC 20503, attention: Desk Officer, Research and Special Programs Administration [RSPA]. Persons submitting comments to OMB are also requested to submit a copy of their comments to RSPA as indicated above under **ADDRESSES**.

Impact Assessment

The proposed rules tracks many of the industry contractual requirements regarding the presence of H₂S in natural gas in transmission pipelines. The commenters indicated that current industry contracts limit the H₂S content to 0.25 to 1.0 grains of H₂S per 100 SCF of natural gas being provided to transmission operators from gas producers. The proposed rule would propose the upper limit of 1.0 grain of H₂S per 100 SCF of natural gas in transmission lines. Therefore, this proposed rule would have minimal economic impact. Comments are particularly solicited on this issue.

With regard to gathering lines in non-rural areas that carry significant amounts of H₂S in natural gas, the proposed rules would use the Texas Railroad Commission's Rule 36 as a model for developing a contingency plan in case of an accidental release of sour gas into the atmosphere. The states of Texas, Michigan, and California, which include 40 percent of the gathering lines in the country, already have similar requirements for all onshore gathering lines in those states so that the development of contingency plan for onshore gathering lines would minimally affect pipeline operators in those states. Louisiana, which has about 28 percent of the gathering lines carrying natural gas

containing H₂S in excess of 31 grains per 100 SCF of natural gas, so such a rule would have very limited impact of Louisiana. This proposed requirement would have an affect in the states of Oklahoma, New Mexico, Wyoming, and Alabama which have sour gas fields, but only for gathering lines that have H₂S in excess of 31 grains per 100 SCF of natural gas in non-rural areas. Because many of the pipeline operators in those states also have pipeline systems in Texas, the costs of developing similar contingency plans in those states would be minimal. Comments are particularly solicited on whether the development of contingency plans would have a minimal economic impact.

With regard to developing contingency plans for offshore gathering lines, the gathering lines off the coast of California and Alabama would be the most affected. A contingency plan for an offshore platform would be easy to develop because the area affected is well defined and only employees working on the platform would be affected. In addition, a contingency plan for one offshore platform could be adapted to other offshore platforms with minimum revisions. Consequently, the cost of development of contingency plans for offshore gathering lines would be minimal.

The proposed rule would require that the release of H₂S in excess of 20 grains per 100 SCF of natural gas into a transmission line be telephonically reported to DOT. RSPA believes that about 5 reports per year, would be received annually. Again the costs would be minimal.

Therefore, the NPRM is considered to be non-major under Executive Order 12291, and is not considered significant under DOT Regulatory Policies and Procedures (49 FR 11034; February 26, 1979). Since the proposed rule would require minimal compliance expense, it does not warrant preparation of a Draft Regulatory Evaluation. Also, based on the facts available concerning the impact of this proposal, I certify under section 605 of the Regulatory Flexibility Act that it would not if adopted as final, have a significant economic impact on a substantial number of small entities. This action has been analyzed under the criteria of Executive Order 12612 (52 FR 41685) and found not to warrant preparation of a federalism Assessment.

List of Subjects

49 CFR Part 191

Incident, Hydrogen sulfide, pipeline safety.

49 CFR Part 192

Hydrogen sulfide, Pipe, Pipeline safety.

In consideration of the foregoing, RSPA proposes to amend 49 CFR parts 191 and 192 as follows:

Part 191—[AMENDED].

1. The authority citation for part 191 continues to read as follows:

Authority: 49 App. U.S.C. 1681(b) and 1808(b); §§ 191.23 and 191.25 also issued under 49 App. U.S.C. 1672(a); and 49 CFR 1.53.

2. The definition of "Incident" in § 191.3 would be revised to read as follows:

§ 191.3 Definitions.

Incident means any of the following events:

(1) An event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility and

(i) A death, or personal injury necessitating in-patient hospitalization; or

(ii) Estimated property damage, including costs of gas lost, of the operator or others, or both, of \$50,000 or more.

(2) An event that results in an emergency shutdown of an LNG facility.

(3) An event where hydrogen sulfide in excess of 20 grains per 100 standard cubic feet of natural gas is released into a transmission pipeline.

(4) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraphs (1), (2), or (3) of this definition.

3. Paragraph (b) in § 191.5 would be revised to read as follows:

§ 191.5 Telephonic notice of certain incidents.

(b)(1) Each notice required by paragraph (a) of this section shall be made by telephone to 800-424-8802 (in Washington, DC, 202-366-2675) and shall include the following information.

(i) Names of operator and person making report and their telephone numbers.

(ii) The location of the incident.

(iii) The time of the incident.

(iv) The number of fatalities and personal injuries, if any.

(v) All other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages.

(2) If the incident involves the release of hydrogen sulfide, each notice will include the following additional

information. (If all information is not available, the missing information will be provided as soon as practicable thereafter).

(i) The amount of hydrogen sulfide that enter the transmission line and how far it spread.

(ii) The reason why the event occurred.

(iii) Corrective action taken.

4. Paragraph (c) in § 191.15 would be revised to read as follows:

§ 191.15 Transmission and gathering systems: Incident report.

(c) The incident report required by paragraph (a) of this section need not be submitted with respect to LNG facilities and an event set forth in paragraph (3) of the definition of "Incident" in § 191.3.

PART 192—[AMENDED]

1. The authority citation for part 192 continues to read as follows:

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

2. A new § 192.631 would be added to Subpart L to read as follows:

§ 192.631 Hydrogen sulfide in transmission pipelines.

Except as set forth in § 192.633, no operator may transport in a transmission line downstream of gas processing plants, sulfur recovery plants, or storage fields, natural gas containing more than 1 grain of hydrogen sulfide per 100 standard cubic feet of natural gas.

3. A new § 192.633 would be added to subpart L to read as follows:

§ 192.633 Contingency Plan for gathering lines carrying hydrogen sulfide.

(a) A gathering line need not meet the transmission pipeline requirements of § 192.631, but if the line is carrying more than 31 grains of hydrogen sulfide per 100 standard cubic feet of natural gas, the operator must have a contingency plan for the release of hydrogen sulfide into the atmosphere for onshore gathering lines in accordance with paragraph (b) of this section and for offshore gathering lines in accordance with paragraph (c) of this section.

(b) A contingency plan for onshore gathering lines must be written, and, at a minimum, must provide for the following:

(1) Applying the contingency plan to a radius of exposure of 500 ppm in accordance with the formula:

$X = [(0.4546) (H_2S \text{ concentration}) (Q)]^{0.625}$
where:

X = radius of exposure in feet
Q = maximum volume of gas determined to be available for escape from the gathering line in cubic feet per day at standard conditions of 14.65 psig and 60°F

H₂S concentration = decimal equivalent of the mole or volume fractions (percent) of hydrogen sulfide in the gaseous mixture

(2) A plat detailing the area of exposure which must include locations and name and telephone number of responsible persons of schools, churches, hospitals, businesses or other similar areas where the public might reasonably be expected.

(3) Coordinating with appropriate public officials in preparation of an emergency plan, which sets forth the steps required to protect the public in the event of an emergency.

(4) Establishing and maintaining adequate means of communication with appropriate fire, police, and other public officials.

(5) The availability of personnel, equipment, tools, and materials, as needed at the scene of an emergency.

(6) Provide for notification of the public of the hazardous and characteristics of hydrogen sulfide, the sources of hydrogen sulfide within the area of exposure, instructions for reporting a gas leak and steps to be taken in case of an emergency.

(7) Placing and maintaining a line market as close as practical over the pipeline at each crossing of a public road and railroad and wherever necessary to identify the location of the pipeline to reduce the possibility of damage or interference, with letters at least one inch high with one-quarter inch stroke on a background of sharply contrasting colors, containing the name and telephone number of the operator and the words "Caution" and "Poison Gas."

(c) A contingency plan for offshore gathering lines must be written, and, at a minimum, must provide for the following:

(1) Applying the contingency plan to each platform located offshore.

(2) Coordinating with appropriate public officials in preparation of an emergency plan, which sets forth the steps required to protect the personnel in the event of an emergency.

(3) Establishing and maintaining adequate means of communication with appropriate fire, police, Coast Guard, and other public officials.

(4) The availability of equipment, gas masks, tools, and materials as needed at the scene of an accident.

(5) Provide for notification of the personnel of the hazardous characteristics of hydrogen sulfide and steps to be taken in case of an emergency.

Issued in Washington, DC on March 13, 1991.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety

[FR Doc. 91-6381 Filed 3-15-91; 8:45 am]

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F
8
8
9
9
9
9
1
1
1
1
1
1

Reader Aids

Federal Register

Vol. 56, No. 52

Monday, March 18, 1991

INFORMATION AND ASSISTANCE

Federal Register

| | |
|---|----------|
| Index, finding aids & general information | 523-5227 |
| Public inspection desk | 523-5215 |
| Corrections to published documents | 523-5237 |
| Document drafting information | 523-5237 |
| Machine readable documents | 523-3447 |

Code of Federal Regulations

| | |
|---|----------|
| Index, finding aids & general information | 523-5227 |
| Printing schedules | 523-3419 |

Laws

| | |
|---|----------|
| Public Laws Update Service (numbers, dates, etc.) | 523-6641 |
| Additional information | 523-5230 |

Presidential Documents

| | |
|--|----------|
| Executive orders and proclamations | 523-5230 |
| Public Papers of the Presidents | 523-5230 |
| Weekly Compilation of Presidential Documents | 523-5230 |

The United States Government Manual

| | |
|---------------------|----------|
| General information | 523-5230 |
|---------------------|----------|

Other Services

| | |
|---|----------|
| Data base and machine readable specifications | 523-3408 |
| Guide to Record Retention Requirements | 523-3187 |
| Legal staff | 523-4534 |
| Library | 523-5240 |
| Privacy Act Compilation | 523-3187 |
| Public Laws Update Service (PLUS) | 523-6641 |
| TDD for the hearing impaired | 523-5229 |

FEDERAL REGISTER PAGES AND DATES, MARCH

| | |
|-------------|----|
| 8681-8904 | 1 |
| 8905-9120 | 4 |
| 9121-9268 | 5 |
| 9269-9580 | 6 |
| 9581-9634 | 7 |
| 9635-10140 | 8 |
| 10141-10356 | 11 |
| 10357-10502 | 12 |
| 10503-10770 | 13 |
| 10771-11052 | 14 |
| 11053-11346 | 15 |
| 11347-11498 | 18 |

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

| | | |
|-----------------|------|--|
| Proposed Rules: | | |
| 305 | 9656 | |

3 CFR

| | | |
|----------------|-------|--|
| Proclamations: | | |
| 6254 | 9121 | |
| 6255 | 9269 | |
| 6256 | 9579 | |
| 6257 | 10353 | |
| 6258 | 10357 | |
| 6259 | 11053 | |

Executive Orders:

| | | |
|---------------------|-------|--|
| 12002 (Amended by | | |
| EO 12755) | 11057 | |
| (See Presidential | | |
| Determination 91-20 | | |
| of January 25, | | |
| 1991) | 8681 | |

| | | |
|---------------|-------|--|
| 12193 (See EO | | |
| 12753) | 10501 | |

| | | |
|---------------|-------|--|
| 12295 (See EO | | |
| 12753) | 10501 | |

| | | |
|---------------|-------|--|
| 12351 (See EO | | |
| 12753) | 10501 | |

| | | |
|---------------|-------|--|
| 12409 (See EO | | |
| 12753) | 10501 | |

| | | |
|---------------|-------|--|
| 12463 (See EO | | |
| 12753) | 10501 | |

| | | |
|---------------|-------|--|
| 12506 (See EO | | |
| 12753) | 10501 | |

| | | |
|---------------|-------|--|
| 12554 (See EO | | |
| 12753) | 10501 | |

| | | |
|---------------|-------|--|
| 12587 (See EO | | |
| 12753) | 10501 | |

| | | |
|---------------|-------|--|
| 12629 (See EO | | |
| 12753) | 10501 | |

| | | |
|---------------|-------|--|
| 12670 (See EO | | |
| 12753) | 10501 | |

| | | |
|-------------------|-------|--|
| 12706 (Superseded | | |
| by EO 12753) | 10501 | |

| | | |
|-------|-------|--|
| 12753 | 10501 | |
| 12754 | 11055 | |
| 12755 | 11057 | |

| | | |
|------------------------|-------|--|
| Administrative Orders: | | |
| Memorandums: | | |
| February 21, 1991 | 9271 | |
| March 4, 1991 | 11347 | |

| | | |
|------------------------------|-------|--|
| Presidential Determinations: | | |
| No. 91-20 of | | |
| January 25, 1991 | 8681 | |
| No. 91-21 of | | |
| February 25, 1991 | 10771 | |
| No. 91-22 of | | |
| March 1, 1991 | 10774 | |

| | | |
|-------|-------|--|
| 5 CFR | | |
| 213 | 10141 | |
| 316 | 10141 | |
| 317 | 10141 | |
| 351 | 10141 | |
| 550 | 11059 | |

| | |
|-----|-------|
| 551 | 11059 |
| 831 | 10141 |
| 842 | 10141 |
| 870 | 10141 |
| 890 | 10141 |

| | |
|-----------------|------|
| Proposed Rules: | |
| 581 | 9181 |

7 CFR

| | |
|------|--------------|
| 1 | 9581 |
| 17 | 9273 |
| 46 | 8683 |
| 51 | 10302 |
| 301 | 9273 |
| 319 | 10789 |
| 354 | 11349 |
| 905 | 8684, 10790 |
| 911 | 10143 |
| 915 | 10143 |
| 916 | 10359 |
| 917 | 10359 |
| 918 | 8905 |
| 944 | 10503, 10792 |
| 958 | 10359 |
| 981 | 10505, 10793 |
| 985 | 10794 |
| 1046 | 9274 |
| 1434 | 9592 |
| 1864 | 10145 |
| 1903 | 10145 |
| 1910 | 10145 |
| 1940 | 10508 |
| 1944 | 10145 |
| 1945 | 10145 |
| 1951 | 10145, 11350 |
| 1955 | 10145 |
| 1956 | 10145 |
| 1965 | 10145 |
| 1980 | 10145 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|--------------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 425 | 11375 |
| 704 | 9293 |
| 723 | 10820 |
| 777 | 10660 |
| 917 | 10819 |
| 920 | 9302 |
| 929 | 10189 |
| 946 | 10826 |
| 1005 | 9306 |
| 1410 | 9293 |
| 1413 | 9251 |
| 1421 | 10189, 10192 |
| 1710 | 10945 |
| 1755 | 10827, 10835 |

| | |
|-----------------|-------|
| Proposed Rules: | |
| 12 | 9258 |
| 52 | 11113 |
| 58 | 10382 |
| 4 | |

329..... 11060

9 CFR

82..... 9752, 11061

97..... 11352

331..... 8907, 8908

381..... 8907, 8908

10 CFR

2..... 10359

710..... 10068

1048..... 9611

Ch. XVII..... 9605

Proposed Rules:

710..... 10075

1703..... 9302, 11114

11 CFR

110..... 9275

12 CFR

265..... 8687

325..... 10154

600..... 8910

601..... 8910

602..... 8910

603..... 8910

604..... 9611

606..... 8910

611..... 8910, 10169

612..... 8910

614..... 8910

615..... 8910

617..... 8910

618..... 8910

619..... 8910

621..... 8910

960..... 8688

1410..... 10302

Proposed Rules:

327..... 9308

567..... 11115

13 CFR

21..... 8699-8701

25..... 8699-8701

39..... 9612-9618, 9835-9838

71..... 9618-9620

108..... 11353

121..... 10360

122..... 10360, 11354

1209..... 8910

Proposed Rules:

39..... 8732, 8733, 8935, 9659, 9661, 9907-9913

71..... 9660, 9663, 9914

75..... 10302

91..... 8938

14 CFR

21..... 8699-8701

39..... 10361, 10796, 1805, 11355-11364

61..... 11308

71..... 10362-10364, 10660, 11365

75..... 11366

95..... 11367

97..... 11370

141..... 11308

Proposed Rules:

Ch. I..... 10383

21..... 11375

25..... 11375

39..... 10837, 10841, 11378-11380

71..... 10384, 10660

75..... 10302, 10843

158..... 10462

15 CFR

303..... 9621

770..... 10760

776..... 10756, 10760

778..... 10760

799..... 10756, 10760

Proposed Rules:

771..... 10760

776..... 10760

778..... 10760

1201..... 11116

16 CFR

305..... 9123

1500..... 9276

1502..... 9276

Proposed Rules:

453..... 11381

1700..... 9191

17 CFR

240..... 9124

18 CFR

1301..... 9288

Proposed Rules:

35..... 8938

19 CFR

Proposed Rules:

141..... 9311

162..... 11122

20 CFR

302..... 10302

404..... 11012, 11304, 11371

416..... 11012, 11304

Proposed Rules:

216..... 10385

404..... 11025

416..... 11025

21 CFR

5..... 8709

361..... 10806

510..... 9622, 9840

520..... 8709, 8710, 9840

522..... 9622

524..... 9622

556..... 8710

559..... 9622, 9841

1308..... 9132

1316..... 8685

Proposed Rules:

60..... 11304

182..... 10843

184..... 10843

201..... 9312

356..... 9915

808..... 8940

1308..... 10845

22 CFR

51..... 11062

514..... 8711

23 CFR

1235..... 10328

24 CFR

Ch. I..... 9472

12..... 11032

91..... 9169

207..... 11032

220..... 11032

221..... 11032

231..... 11032

232..... 11032

241..... 11032

282..... 11032

791..... 9822

Proposed Rules:

203..... 8941

25 CFR

61..... 10806

26 CFR

1..... 8911, 10365, 11062-11093

31..... 8911

301..... 9169

602..... 8912, 10365, 11093

Proposed Rules:

1..... 8943-8967, 10211, 10395-10397, 11122-11129

301..... 9182

602..... 11129

27 CFR

5..... 8922

Proposed Rules:

15..... 10066

28 CFR

0..... 8923, 10509

8..... 8685

Proposed Rules:

11..... 8734

51..... 10348

29 CFR

541..... 9252

579..... 9252

580..... 9252

801..... 9046

1601..... 9623

1910..... 10377

2676..... 11097

Proposed Rules:

516..... 9183

778..... 9183

1602..... 9185

1610..... 10847

1611..... 10850

2550..... 10724

30 CFR

56..... 9626

57..... 9626

228..... 10510

243..... 9251

723..... 10060

845..... 10060

914..... 11098

Proposed Rules:

7..... 10464

18..... 10464

100..... 11130

845..... 11130

870..... 10404

901..... 8967

913..... 8969

914..... 11133

935..... 9312

31 CFR

100..... 10169

560..... 11100

570..... 10356

32 CFR

191..... 10170

291..... 9841

627..... 9424

811..... 10945

Proposed Rules:

155..... 10215

162..... 10219

299a..... 9314

33 CFR

3..... 9288

100..... 9850, 9851, 11100

110..... 9852

117..... 8712, 10512

151..... 8878

165..... 9289, 10513

Proposed Rules:

100..... 11134, 11135

117..... 9916

165..... 10853

34 CFR

Proposed Rules:

674..... 10742

675..... 10742

676..... 10742

35 CFR

9..... 11373

36 CFR

Proposed Rules:

9..... 9917

228..... 11386

37 CFR

201..... 10660

211..... 10660

38 CFR

6..... 9626

8..... 9626

21..... 9627

36..... 9853

Proposed Rules:

3..... 10303

4..... 10303

39 CFR

Proposed Rules:

111..... 9664

40 CFR

52..... 9172-9175, 10171

60..... 9177

61..... 10514

81..... 11101

82..... 9518, 10660

147..... 9408

228..... 9178

Proposed Rules:

Ch. I..... 8972, 9315, 10522

51..... 11387

52..... 11387

61..... 10523, 10524

86..... 8856, 9754

123..... 8973

300..... 9187, 11391

435..... 10664

600..... 8856

799..... 9092, 9105

41 CFR
 105-8..... 9862
 301-1..... 9878, 11105-11304
 301-10..... 10378
 302-11..... 9289, 10378
 Ch. 304..... 9878, 11105-11304

42 CFR
 400..... 8832
 405..... 8832
 406..... 8832
 412..... 9633
 434..... 10515
 435..... 10806
 436..... 10806
 440..... 10806, 10807

43 CFR
 5400..... 10173
 5420..... 10173
 5450..... 10173
 5460..... 10173
 9230..... 10173

Public Land Orders:
 6838..... 10380

44 CFR
 64..... 10515, 10517
 353..... 9452

45 CFR
 74..... 8712
 205..... 8924
 232..... 8926
 234..... 8926
 235..... 8926
 801..... 9180
 1180..... 10176
 1611..... 9634

46 CFR
 25..... 8878
Proposed Rules:
 56..... 10526
 58..... 10526
 107..... 10526
 108..... 10526
 109..... 10526
 111..... 10526
 174..... 10526

47 CFR
 0..... 9752
 2..... 9881
 21..... 9897
 69..... 9897
 73..... 8933, 8934, 9898, 9899,
 10178, 10381, 10518, 10519,
 11106, 11107
 80..... 9881
 94..... 9897, 9900

Proposed Rules:
 1..... 10222
 2..... 10222
 43..... 10526
 64..... 11136
 68..... 11136
 73..... 8974-8976, 9189-9191,
 9924, 10227, 10527, 11139-
 11143
 76..... 9924
 95..... 10222

48 CFR
Proposed Rules:
 Ch. 2, App. N..... 9082

22..... 9832
 42..... 9832
 52..... 9832
 202..... 9082
 203..... 9082
 204..... 9082
 217..... 9082
 223..... 10405
 225..... 9082, 10854
 228..... 9082
 231..... 10854
 232..... 9082
 242..... 10854
 245..... 9082
 252..... 9082, 10405
 1403..... 10227
 1405..... 10227
 1415..... 10227
 1453..... 10227
 1803..... 8718
 1804..... 8718
 1805..... 8718
 1806..... 8718
 1814..... 8718
 1815..... 8718
 1819..... 8718
 1836..... 8718
 1849..... 8718
 1852..... 8718
 1853..... 8718

49 CFR
 1..... 9635
 386..... 10179
 571..... 10185, 11107
 1010..... 9635
 1011..... 8721
 1177..... 10519
 1180..... 10808
 1350..... 8722

Proposed Rules:
 191..... 11490
 192..... 11490
 383..... 9925
 571..... 9928, 11142-11164
 575..... 10661
 Ch. X..... 9191
 1053..... 9339

50 CFR
 17..... 10809
 23..... 10809
 611..... 8722, 38723
 620..... 8722
 646..... 9251
 672..... 9635, 9636
 675..... 9636, 10521
Proposed Rules:
 17..... 11392-11401
 20..... 9462, 11336
 285..... 10227
 641..... 9930
 658..... 8736
 672..... 9251
 675..... 9251, 10527
 683..... 11166
 685..... 11169

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List March 15, 1991

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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| Title | Price | Revision Date |
|--|---------|---------------------------|
| *1, 2 (2 Reserved) | \$12.00 | Jan. 1, 1991 |
| 3 (1989 Compilation and Parts 100 and 101) | 11.00 | ¹ Jan. 1, 1990 |
| 4 | 15.00 | Jan. 1, 1991 |
| 5 Parts: | | |
| 1-699 | 17.00 | Jan. 1, 1991 |
| 700-1199 | 13.00 | Jan. 1, 1990 |
| 1200-End, 6 (6 Reserved) | 17.00 | Jan. 1, 1990 |
| 7 Parts: | | |
| 0-26 | 15.00 | Jan. 1, 1991 |
| *27-45 | 12.00 | Jan. 1, 1991 |
| 46-51 | 17.00 | Jan. 1, 1990 |
| 52 | 24.00 | Jan. 1, 1991 |
| 53-209 | 19.00 | Jan. 1, 1990 |
| 210-299 | 25.00 | Jan. 1, 1990 |
| 300-399 | 12.00 | Jan. 1, 1990 |
| 400-699 | 20.00 | Jan. 1, 1990 |
| 700-899 | 22.00 | Jan. 1, 1990 |
| 900-999 | 29.00 | Jan. 1, 1990 |
| 1000-1059 | 16.00 | Jan. 1, 1990 |
| 1060-1119 | 12.00 | Jan. 1, 1991 |
| *1120-1199 | 10.00 | Jan. 1, 1991 |
| *1200-1499 | 18.00 | Jan. 1, 1991 |
| 1500-1899 | 11.00 | Jan. 1, 1990 |
| 1900-1939 | 11.00 | Jan. 1, 1990 |
| 1940-1949 | 22.00 | Jan. 1, 1991 |
| 1950-1999 | 24.00 | Jan. 1, 1990 |
| 2000-End | 9.50 | Jan. 1, 1990 |
| 8 | 14.00 | Jan. 1, 1990 |
| 9 Parts: | | |
| 1-199 | 20.00 | Jan. 1, 1990 |
| 200-End | 18.00 | Jan. 1, 1990 |
| 10 Parts: | | |
| 0-50 | 21.00 | Jan. 1, 1990 |
| 51-199 | 17.00 | Jan. 1, 1990 |
| 200-399 | 13.00 | ² Jan. 1, 1987 |
| 400-499 | 21.00 | Jan. 1, 1990 |
| 500-End | 26.00 | Jan. 1, 1990 |
| 11 | 11.00 | Jan. 1, 1990 |
| 12 Parts: | | |
| 1-199 | 12.00 | Jan. 1, 1990 |
| 200-219 | 12.00 | Jan. 1, 1990 |
| 220-299 | 21.00 | Jan. 1, 1990 |
| 300-499 | 19.00 | Jan. 1, 1990 |
| *500-599 | 17.00 | Jan. 1, 1991 |
| 600-End | 17.00 | Jan. 1, 1990 |
| 13 | 25.00 | Jan. 1, 1990 |
| 14 Parts: | | |
| 1-59 | 25.00 | Jan. 1, 1990 |
| 60-139 | 24.00 | Jan. 1, 1990 |
| 140-199 | 10.00 | Jan. 1, 1990 |
| 200-1199 | 21.00 | Jan. 1, 1990 |

| Title | Price | Revision Date |
|------------------|-------|---------------------------|
| 1200-End | 13.00 | Jan. 1, 1991 |
| 15 Parts: | | |
| 0-299 | 11.00 | Jan. 1, 1990 |
| 300-799 | 22.00 | Jan. 1, 1990 |
| 800-End | 15.00 | Jan. 1, 1990 |
| 16 Parts: | | |
| 0-149 | 5.50 | Jan. 1, 1991 |
| 150-999 | 14.00 | Jan. 1, 1990 |
| 1000-End | 20.00 | Jan. 1, 1990 |
| 17 Parts: | | |
| 1-199 | 15.00 | Apr. 1, 1990 |
| 200-239 | 16.00 | Apr. 1, 1990 |
| 240-End | 23.00 | Apr. 1, 1990 |
| 18 Parts: | | |
| 1-149 | 16.00 | Apr. 1, 1990 |
| 150-279 | 16.00 | Apr. 1, 1990 |
| 280-399 | 14.00 | Apr. 1, 1990 |
| 400-End | 9.50 | Apr. 1, 1990 |
| 19 Parts: | | |
| 1-199 | 28.00 | Apr. 1, 1990 |
| 200-End | 9.50 | Apr. 1, 1990 |
| 20 Parts: | | |
| 1-399 | 14.00 | Apr. 1, 1990 |
| 400-499 | 25.00 | Apr. 1, 1990 |
| 500-End | 28.00 | Apr. 1, 1990 |
| 21 Parts: | | |
| 1-99 | 13.00 | Apr. 1, 1990 |
| 100-169 | 15.00 | Apr. 1, 1990 |
| 170-199 | 17.00 | Apr. 1, 1990 |
| 200-299 | 5.50 | Apr. 1, 1990 |
| 300-499 | 29.00 | Apr. 1, 1990 |
| 500-599 | 21.00 | Apr. 1, 1990 |
| 600-799 | 8.00 | Apr. 1, 1990 |
| 800-1299 | 18.00 | Apr. 1, 1990 |
| 1300-End | 9.00 | Apr. 1, 1990 |
| 22 Parts: | | |
| 1-299 | 24.00 | Apr. 1, 1990 |
| 300-End | 18.00 | Apr. 1, 1990 |
| 23 | 17.00 | Apr. 1, 1990 |
| 24 Parts: | | |
| 0-199 | 20.00 | Apr. 1, 1990 |
| 200-499 | 30.00 | Apr. 1, 1990 |
| 500-699 | 13.00 | Apr. 1, 1990 |
| 700-1699 | 24.00 | Apr. 1, 1990 |
| 1700-End | 13.00 | Apr. 1, 1990 |
| 25 | 25.00 | Apr. 1, 1990 |
| 26 Parts: | | |
| §§ 1.0-1-1.60 | 15.00 | Apr. 1, 1990 |
| §§ 1.61-1.169 | 28.00 | Apr. 1, 1990 |
| §§ 1.170-1.300 | 18.00 | Apr. 1, 1990 |
| §§ 1.301-1.400 | 17.00 | Apr. 1, 1990 |
| §§ 1.401-1.500 | 29.00 | Apr. 1, 1990 |
| §§ 1.501-1.640 | 16.00 | ³ Apr. 1, 1989 |
| §§ 1.641-1.850 | 19.00 | Apr. 1, 1990 |
| §§ 1.851-1.907 | 20.00 | Apr. 1, 1990 |
| §§ 1.908-1.1000 | 22.00 | Apr. 1, 1990 |
| §§ 1.1001-1.1400 | 18.00 | Apr. 1, 1990 |
| §§ 1.1401-End | 24.00 | Apr. 1, 1990 |
| 2-29 | 21.00 | Apr. 1, 1990 |
| 30-39 | 15.00 | Apr. 1, 1990 |
| 40-49 | 13.00 | ³ Apr. 1, 1989 |
| 50-299 | 16.00 | ³ Apr. 1, 1989 |
| 300-499 | 17.00 | Apr. 1, 1990 |
| 500-599 | 6.00 | Apr. 1, 1990 |
| 600-End | 6.50 | Apr. 1, 1990 |
| 27 Parts: | | |
| 1-199 | 24.00 | Apr. 1, 1990 |
| 200-End | 14.00 | Apr. 1, 1990 |
| 28 | 28.00 | July 1, 1990 |

| Title | Price | Revision Date | Title | Price | Revision Date |
|--|-------|---------------------------|--------------------------------------|--------|---------------------------|
| 29 Parts: | | | 19-100..... | 13.00 | ⁶ July 1, 1984 |
| 0-99..... | 18.00 | July 1, 1990 | 1-100..... | 8.50 | July 1, 1990 |
| 100-499..... | 8.00 | July 1, 1990 | 101..... | 24.00 | July 1, 1990 |
| 500-899..... | 26.00 | July 1, 1990 | 102-200..... | 11.00 | July 1, 1990 |
| 900-1899..... | 12.00 | July 1, 1990 | 201-End..... | 13.00 | July 1, 1990 |
| 1900-1910 (§§ 1901.1 to 1910.999)..... | 24.00 | July 1, 1990 | 42 Parts: | | |
| 1910 (§§ 1910.1000 to end)..... | 14.00 | July 1, 1990 | 1-60..... | 16.00 | Oct. 1, 1990 |
| 1911-1925..... | 9.00 | ⁴ July 1, 1989 | 61-399..... | 5.50 | Oct. 1, 1990 |
| 1926..... | 12.00 | July 1, 1990 | 400-429..... | 21.00 | Oct. 1, 1990 |
| 1927-End..... | 25.00 | July 1, 1990 | 430-End..... | 25.00 | Oct. 1, 1990 |
| 30 Parts: | | | 43 Parts: | | |
| 0-199..... | 22.00 | July 1, 1990 | 1-999..... | 19.00 | Oct. 1, 1990 |
| 200-699..... | 14.00 | July 1, 1990 | 1000-3999..... | 26.00 | Oct. 1, 1990 |
| 700-End..... | 21.00 | July 1, 1990 | 4000-End..... | 12.00 | Oct. 1, 1990 |
| 31 Parts: | | | 44..... | 23.00 | Oct. 1, 1990 |
| 0-199..... | 15.00 | July 1, 1990 | 45 Parts: | | |
| 200-End..... | 19.00 | July 1, 1990 | 1-199..... | 17.00 | Oct. 1, 1990 |
| 32 Parts: | | | 200-499..... | 12.00 | Oct. 1, 1990 |
| 1-39, Vol. I..... | 15.00 | ⁵ July 1, 1984 | 500-1199..... | 26.00 | Oct. 1, 1990 |
| 1-39, Vol. II..... | 19.00 | ⁵ July 1, 1984 | 1200-End..... | 18.00 | Oct. 1, 1990 |
| 1-39, Vol. III..... | 18.00 | ⁵ July 1, 1984 | 46 Parts: | | |
| 1-189..... | 24.00 | July 1, 1990 | 1-40..... | 14.00 | Oct. 1, 1990 |
| 190-399..... | 28.00 | July 1, 1990 | 41-69..... | 14.00 | Oct. 1, 1990 |
| 400-629..... | 24.00 | July 1, 1990 | 70-89..... | 8.00 | Oct. 1, 1990 |
| 630-699..... | 13.00 | ⁴ July 1, 1989 | 90-139..... | 12.00 | Oct. 1, 1990 |
| 700-799..... | 17.00 | July 1, 1990 | 140-155..... | 13.00 | Oct. 1, 1990 |
| 800-End..... | 19.00 | July 1, 1990 | 156-165..... | 14.00 | Oct. 1, 1990 |
| 33 Parts: | | | 166-199..... | 14.00 | Oct. 1, 1990 |
| 1-124..... | 16.00 | July 1, 1990 | 200-499..... | 20.00 | Oct. 1, 1990 |
| 125-199..... | 18.00 | July 1, 1990 | 500-End..... | 11.00 | Oct. 1, 1990 |
| 200-End..... | 20.00 | July 1, 1990 | 47 Parts: | | |
| 34 Parts: | | | 0-19..... | 19.00 | Oct. 1, 1990 |
| 1-299..... | 23.00 | July 1, 1990 | 20-39..... | 18.00 | Oct. 1, 1990 |
| 300-399..... | 14.00 | July 1, 1990 | 40-69..... | 9.50 | Oct. 1, 1990 |
| 400-End..... | 27.00 | July 1, 1990 | 70-79..... | 18.00 | Oct. 1, 1990 |
| 35..... | 10.00 | July 1, 1990 | 80-End..... | 20.00 | Oct. 1, 1990 |
| 36 Parts: | | | 48 Chapters: | | |
| 1-199..... | 12.00 | July 1, 1990 | 1 (Parts 1-51)..... | 30.00 | Oct. 1, 1990 |
| 200-End..... | 25.00 | July 1, 1990 | 1 (Parts 52-99)..... | 19.00 | Oct. 1, 1990 |
| 37..... | 15.00 | July 1, 1990 | 2 (Parts 201-251)..... | 19.00 | Oct. 1, 1990 |
| 38 Parts: | | | 2 (Parts 252-299)..... | 15.00 | Oct. 1, 1990 |
| 0-17..... | 24.00 | July 1, 1990 | 3-6..... | 19.00 | Oct. 1, 1990 |
| 18-End..... | 21.00 | July 1, 1990 | 7-14..... | 26.00 | Oct. 1, 1990 |
| 39..... | 14.00 | July 1, 1990 | 15-End..... | 29.00 | Oct. 1, 1990 |
| 40 Parts: | | | 49 Parts: | | |
| 1-51..... | 27.00 | July 1, 1990 | 1-99..... | 14.00 | Oct. 1, 1990 |
| 52..... | 28.00 | July 1, 1990 | 100-177..... | 27.00 | Oct. 1, 1990 |
| 53-60..... | 31.00 | July 1, 1990 | 178-199..... | 22.00 | Oct. 1, 1990 |
| 61-80..... | 13.00 | July 1, 1990 | 200-399..... | 21.00 | Oct. 1, 1990 |
| 81-85..... | 11.00 | July 1, 1990 | 400-999..... | 26.00 | Oct. 1, 1990 |
| 86-99..... | 26.00 | July 1, 1990 | 1000-1199..... | 17.00 | Oct. 1, 1990 |
| 100-149..... | 27.00 | July 1, 1990 | 1200-End..... | 19.00 | Oct. 1, 1990 |
| 150-189..... | 23.00 | July 1, 1990 | 50 Parts: | | |
| 190-259..... | 13.00 | July 1, 1990 | 1-199..... | 20.00 | Oct. 1, 1990 |
| 260-299..... | 22.00 | July 1, 1990 | 200-599..... | 16.00 | Oct. 1, 1990 |
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| 41 Chapters: | | | Complete set (one-time mailing)..... | 185.00 | 1989 |
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| 1, 1-11 to Appendix, 2 (2 Reserved)..... | 13.00 | ⁶ July 1, 1984 | Subscription (mailed as issued)..... | 188.00 | 1991 |
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| 7..... | 6.00 | ⁶ July 1, 1984 | | | |
| 8..... | 4.50 | ⁶ July 1, 1984 | | | |
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| 10-17..... | 9.50 | ⁶ July 1, 1984 | | | |
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| 18, Vol. III, Parts 20-52..... | 13.00 | ⁶ July 1, 1984 | | | |

LIST OF ACTS REQUIRING PUBLICATION IN THE FEDERAL REGISTER, 1990

Additions to Table III, May 24, 1990 through November 29, 1990

This table lists the subject matter, public law number, and citations to the U.S. Statutes at Large and U.S. Code for those acts of the second session of the 101st Congress that require Federal agencies to publish documents in the Federal Register. Table III appears in the CFR Index and Finding Aids volume revised as of January 1, 1991.

| <i>Description of Act</i> | <i>Public Law</i> | <i>Citation</i> |
|--|-------------------|---|
| To make miscellaneous amendments to Indian laws, and for other purposes. | 101-301 | 104 Stat. 210; 25 U.S.C. 331 note. |
| Oil Pollution Act of 1990 | 101-380 | 104 Stat. 534; 33 U.S.C. 1321. |
| Customs and Trade Act of 1990 | 101-382 | 104 Stat. 639; 19 U.S.C. 58c note. 104 Stat. 715; 16 U.S.C. 620a. |
| Energy Policy and Conservation Act Amendments of 1990 | 101-383 | 104 Stat. 732; 42 U.S.C. 6249c. |
| Hotel and Motel Fire Safety Act of 1990 | 101-391 | 104 Stat. 748; 15 U.S.C. 2224. |
| Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. | 101-392 | 104 Stat. 830; 20 U.S.C. 2466a. |
| Market Reform Act of 1990 | 101-432 | 104 Stat. 967; 15 U.S.C. 78q. 104 Stat. 971-15 U.S.C. 78o-5. |
| To authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes. | 101-442 | 104 Stat. 1019; 16 U.S.C. 430h-6. |
| National Nutrition Monitoring and Related Research Act of 1990 | 101-445 | 104 Stat. 1039; 7 U.S.C. 5313. 104 Stat. 1043; 7 U.S.C. 5341. |
| Education of the Handicapped Act Amendments of 1990 | 101-476 | 104 Stat. 1105. 104 Stat. 1114, 1115; 20 U.S.C. 1418. 104 Stat. 1118; 20 U.S.C. 1421. 104 Stat. 1137; 20 U.S.C. 1441. |
| Developmental Disabilities Assistance and Bill of Rights Act of 1990.. | 101-496 | 104 Stat. 1195; 42 U.S.C. 6007. |
| Sanitary Food Transportation Act of 1990 | 101-500 | 104 Stat. 1215; 49 U.S.C. app. 2804. 104 Stat. 1216; 49 U.S.C. app. 2805, 2806. 104 Stat. 1217; 49 U.S.C. app. 2807. |
| Augustus F. Hawkins Human Services Reauthorization Act of 1990 | 101-501 | 104 Stat. 1235; 42 U.S.C. 9846. 104 Stat. 1282; 42 U.S.C. 12373. |
| Omnibus Budget Reconciliation Act of 1990 | 101-508 | 104 Stat. 1388-60; 42 U.S.C. 1395w-4 note. 104 Stat. 1388-110; 42 U.S.C. 1395mm note. 104 Stat. 1388-267; 42 U.S.C. 406. 104 Stat. 1388-296; 30 U.S.C. 1240a. 104 Stat. 1388-311; 16 U.S.C. 1458. 104 Stat. 1388-395; 22 U.S.C. 2128. 104 Stat. 1388-586; 2 U.S.C. 904. |
| Treasury, Postal Service and General Government Appropriations Act, 1991. | 101-509 | 104 Stat. 1430; 5 U.S.C. 5303. 104 Stat. 1446; 5 U.S.C. 5372a. 104 Stat. 1448; 5 U.S.C. 5392. |
| National Defense Authorization Act for Fiscal Year 1991 | 101-510 | 104 Stat. 1589; 10 U.S.C. 2305 note. 104 Stat. 1614; 10 U.S.C. 2331. 104 Stat. 1810, 1811; 10 U.S.C. 2687 note. |
| Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991. | 101-513 | 104 Stat. 2022. |
| Energy and Water Development Appropriations Act, 1991 | 101-514 | 104 Stat. 2099; 41 U.S.C. 10b note. |
| Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991. | 101-515 | 104 Stat. 2116. 104 Stat. 2141; 15 U.S.C. 651. |
| Department of Transportation and Related Agencies Appropriations Act, 1991. | 101-516 | 104 Stat. 2181. 104 Stat. 2187, 2188; 41 U.S.C. 10b note. |
| Nutrition Labeling and Education Act of 1990 | 101-535 | 104 Stat. 2357, 2362; 21 U.S.C. 343 note. 104 Stat. 2360; 21 U.S.C. 343. |
| To amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes. | 101-549 | 104 Stat. 2401; 42 U.S.C. 7407. 104 Stat. 2413; 42 U.S.C. 7502. 104 Stat. 2422; 42 U.S.C. 7509. 104 Stat. 2425; 42 U.S.C. 7511. 104 Stat. 2426, 2433, 2435; 42 U.S.C. 7511a. 104 Stat. 2449; 42 U.S.C. 7511c. 104 Stat. 2453; 42 U.S.C. 7512. 104 Stat. 2459; 42 U.S.C. 7513. 104 Stat. 2491, 2495; 42 U.S.C. 7545. 104 Stat. 2680; 42 U.S.C. 7413. |
| Displaced Homemakers Self-Sufficiency Assistance Act | 101-554 | 104 Stat. 2754; 29 U.S.C. 2306. |
| Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990. | 101-575 | 104 Stat. 2836; 42 U.S.C. 2243. |
| Excellence in Mathematics, Science and Engineering Education Act of 1990. | 101-589 | 104 Stat. 2901; 20 U.S.C. 5383. 104 Stat. 2904; 20 U.S.C. 5401. |
| Coastal Barrier Improvement Act of 1990 | 101-591 | 104 Stat. 2933, 2934; 16 U.S.C. 3503 note. 104 Stat. 2939; 12 U.S.C. 1441a-3. |

| <i>Description of Act</i> | <i>Public Law</i> | <i>Citation</i> |
|--|-------------------|--|
| Fastener Quality Act..... | 101-592 | 104 Stat. 2947; 15 U.S.C. 5405. |
| To direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina, and for other purposes. | 101-593 | 104 Stat. 2956, 2957; 16 U.S.C. 668dd note. |
| Great Lakes Critical Programs Act of 1990 | 101-596 | 104 Stat. 3000, 3001; 33 U.S.C. 1268. |
| National Health Service Corps Revitalization Amendments of 1990..... | 101-597 | 104 Stat. 3014; 42 U.S.C. 254e. 104 Stat. 3016; 42 U.S.C. 554f-1. |
| Native American Graves Protection and Repatriation Act..... | 101-601 | 104 Stat. 3052; 25 U.S.C. 3003. |
| Global Change Research Act of 1990 | 101-606 | 104 Stat. 3100; 15 U.S.C. 2934. |
| Consumer Product Safety Improvement Act of 1990..... | 101-608 | 104 Stat. 3113; 15 U.S.C. 2058. 104 Stat. 3118; 15 U.S.C. 2069. 104 Stat. 3119; 15 U.S.C. 1264. 104 Stat. 3120; 15 U.S.C. 1194. |
| Hazardous Materials Transportation Uniform Safety Act of 1990 | 101-615 | 104 Stat. 3248; 49 U.S.C. app. 1804. 104 Stat. 3260; 49 U.S.C. app. 1811. |
| Transplant Amendments Act of 1990..... | 101-616 | 104 Stat. 3283; 42 U.S.C. 273. |
| National Environmental Education Act..... | 101-619 | 104 Stat. 3336; 20 U.S.C. 5509. |
| Food, Agriculture, Conservation, and Trade Act of 1990..... | 101-624 | 104 Stat. 3376; 7 U.S.C. 1446e. 104 Stat. 3420; 7 U.S.C. 1445j note. 104 Stat. 3482; 7 U.S.C. 1359cc. 104 Stat. 3487; 7 U.S.C. 1359hh. 104 Stat. 3628; 7 U.S.C. 136d. 104 Stat. 3753; 7 U.S.C. 5872. 104 Stat. 3764; 7 U.S.C. 5906. 104 Stat. 3800; 7 U.S.C. 2026. 104 Stat. 3809; 7 U.S.C. 612c note. 104 Stat. 3908; 7 U.S.C. 4603. 104 Stat. 3947; 7 U.S.C. 6517. 104 Stat. 3987; 7 U.S.C. 2007c. 104 Stat. 4040; 7 U.S.C. 927. |
| Cranston-Gonzalez National Affordable Housing Act..... | 101-625 | 104 Stat. 4139; 12 U.S.C. 1735f-17. 104 Stat. 4145; 12 U.S.C. 1715l. 104 Stat. 4181; 42 U.S.C. 1437d. 104 Stat. 4185; 42 U.S.C. 1437d note. 104 Stat. 4224; 42 U.S.C. 1437f. 104 Stat. 4230; 42 U.S.C. 1437u. 104 Stat. 4286; 42 U.S.C. 1472 note. 104 Stat. 4289; 42 U.S.C. 1479 note. 104 Stat. 4300; 12 U.S.C. 1701q. 104 Stat. 4327; 12 U.S.C. 8013. 104 Stat. 4356; 42 U.S.C. 11301 note. 104 Stat. 4449; 16 U.S.C. 1854. 104 Stat. 4458; 16 U.S.C. 1862. |
| Fishery Conservation Amendments of 1990..... | 101-627 | 104 Stat. 4491, 4501. |
| To provide for the designation of certain public lands as wilderness in the State of Arizona. | 101-628 | 104 Stat. 4515; 21 U.S.C. 360i note. 104 Stat. 4516; 21 U.S.C. 360e. 104 Stat. 4516, 4522, 4523; 21 U.S.C. 360j. 104 Stat. 4517; 21 U.S.C. 360c note. 104 Stat. 4519; 21 U.S.C. 360d. |
| Safe Medical Devices Act of 1990..... | 101-629 | 104 Stat. 4557; 25 U.S.C. 1621h. 104 Stat. 4562; 25 U.S.C. 1637. |
| To authorize the Rumsey Indian Rancheria to convey a certain parcel of land. | 101-630 | 104 Stat. 4581. |
| Salt Lake City Watershed Improvement Act of 1990 | 101-634 | 104 Stat. 4616. |
| Water Resources Development Act of 1990..... | 101-640 | 104 Stat. 4700. 104 Stat. 4720, 4721; 42 U.S.C. 11411. |
| Stewart B. McKinney Homeless Assistance Amendments Act of 1990. | 101-645 | 104 Stat. 4767; 16 U.S.C. 4722. |
| To prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes. | 101-646 | 104 Stat. 4971; 5 U.S.C. 584. 104 Stat. 4972; 5 U.S.C. 585. |
| Negotiated Rulemaking Act of 1990..... | 101-648 | 104 Stat. 5031, 5032; 8 U.S.C. 1254a. |
| Immigration Act of 1990..... | 101-649 | |

