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Briefings on How To Use the Federal Register
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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1956

Debt Settlement

AGENCY: Farmers Home Administration, USDA.

ACTION: Correction to final rule.

SUMMARY: The Farmers Home Administration (FmHA) published a final rule on Monday, March 11, 1991, beginning at page 10145 of Vol. 56, No. 47 of the **Federal Register** amending its debt settlement regulations. In that rulemaking action, the Agency intended to head paragraph (a)(1) under § 1956.58 to read as, "Farmer Program and Multi-Family Housing debts." This action corrects an error which mistakenly left out the multi-family housing program from § 1956.58(a)(1). The March 11, 1991, rulemaking clearly highlighted that one of the major changes was to ensure that multiple family housing debts could be debt settled. The rulemaking provides multi-family housing coverage throughout the rulemaking action; however, through error it left out needed wording changes in the heading for § 1956.58(a)(1).

EFFECTIVE DATE: April 10, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas Baden, Senior Loan Officer, Loan Servicing and Property Management Division, FmHA, room 5437, South Building, Washington, DC 20250, telephone (202) 475–4008.

SUPPLEMENTARY INFORMATION: See the rulemaking action published on March 11, 1991, for a discussion of the debt settlement changes, intergovernmental consultation considerations, a list of programs affected and subjects covered, and the rulemaking action itself.

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

PART 1956—DEBT SETTLEMENT

1. The authority citation for part 1956 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23, 7 CFR 2.70.

Subpart B—Debt Settlement—Farmer Programs and Housing

2. The introductory text of § 1956.58(a)(1) is correctly revised to read as follows:

§ 1956.58 Approval or rejection.

* * * * *

(a) * * *

(1) Farmer Program and Multi-Family Housing debts.

* * * * *

Dated: March 26, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91–8148 Filed 4–5–91; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–NM–242–AD; Amendment 39–6961]

Airworthiness Directives; McDonnell Douglas Models DC–10–15, –30, –30F, and KC–10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all McDonnell Douglas Models DC–10–15, –30, –30F and KC–10A (Military) series airplanes, which currently requires repetitive eddy current inspections to detect cracks in the horizontal and vertical flanges of the engine forward mount truss assembly on pylons 1 and 3. Such cracking, if not correct, could result in the loss of structural integrity of the wing engine forward mount truss fitting and eventual loss of the wing engine from the airplane. This amendment allows optional repair procedures and requires the replacement of existing engine forward mount truss fittings with an improved part. This amendment is prompted by additional data presented by the manufacturer to substantiate the new repair option, and the development of a new improved truss fitting that, when installed, would terminate the need for repetitive inspections.

EFFECTIVE DATE: May 10, 1991.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications, C1–HDR (54–60). 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 Officer, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Aerospace Engineer, Los Angeles Aircraft Certification Office, Airframe Branch ANM–120L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5231.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 90–13–03, Amendment 39–6634 (54 FR 23894, June 13, 1990), applicable to McDonnell Douglas Model DC–10 series airplanes, to allow optional repair procedures, and would require the replacement of existing engine forward mount truss fittings with an improved part, was published in the **Federal Register** on January 9, 1991 (54 FR 806).

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.

One commenter agreed with the rule as proposed.

Paragraph F. of the final rule has been revised to specify the current procedures for submitting requests for approval of alternative means of compliance.

The economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary

to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

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 significantly increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 262 Model DC-10 series airplanes of the affected design in the worldwide fleet. It is estimated that 54 airplanes of U.S. registry will be affected by this AD, that it will take approximately 300 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. It is estimated that the cost of parts required for the terminating action will cost $236,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators associated with this supersedure is estimated to be $13,635,000.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6634 (54 FR 23894, June 13, 1990), AD 90-13-03 with the following new airworthiness directive:

McDonnell Douglas: Applies to all Models DC-10-15, -30, -30F, and KC-10A (Military) series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the failure of the engine forward mount truss assembly on pylons 1 and 3, accomplish the following:

A. Prior to the accumulation of 9,000 landings of 30,000 flight hours, whichever occurs first, or within 20 days after June 22, 1989 (the effective date of Amendment 39-6235, AD 89-13-01), whichever occurs later, conduct an eddy current inspection of the engine forward mount truss assembly on pylons 1 and 3, in accordance with Paragraph 2, "Accomplishment Instructions," of McDonnell Douglas Alert Service Bulletin No. A54-99, Revision 1, dated March 31, 1989; or Revision 2, dated July 17, 1990 (hereafter referred to as A54-99). Conduct subsequent inspections in accordance with the subparagraph applicable to the condition detected.

1. If no crack indications are found in either horizontal flange, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 2,000 landings or 6,000 flight hours, whichever occurs first.

2. If a single crack indication in one bolt hole of the horizontal flange is found with no crack indication extending out from under the AUB7013-1 angle, and there are no crack indications in the opposite fitting, accomplish the following:

a. Conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 500 flight hours; and

b. Prior to the accumulation of 500 landings or 2,000 flight hours, whichever occurs first, after the initial detection of a crack, accomplish one of the following:

(1) Install SR10540003-3 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-501 truss fitting, or install SR10540003-4 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-99. After installation of the strap, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 1,000 flight hours to monitor crack propagation; or

(2) Enlarge the diameter of the fastener hole to remove the crack indication and install new fasteners in accordance with A54-99.

(a) If the crack indication is eliminated, conduct repetitive eddy current inspections in accordance with A54-99 of the repaired truss fitting for cracks in the forward horizontal flange attaching bolt holes at intervals not to exceed 1,500 landings or 4,500 flight hours, whichever occurs first.

(b) If the crack indication still exists in the truss fitting after enlarging the fastener hole, install SR10540003-3 Rev. A. or B. strap on the horizontal flange of the AUB7000-501 truss fitting, or install SR10540003-4 Rev. A. or B. strap on the AUB7000-502 truss fitting, as applicable, in accordance with A54-99. After installation of the strap, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 1,000 flight hours to monitor crack propagation.

3. If a single crack indication in one bolt hole is found in the horizontal flange with the crack extending out from under the AUB7013-1 angle, but not beyond the tangent point of the fillet radius to the vertical flange, as shown in Figure 2 (Condition III) of A54-99, and there are no crack indications in the opposite fitting, accomplish the following:

a. Prior to further flight, install SR10540003-3 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-501 truss fitting, or install SR10540003-4 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-99; and

b. After installation of the strap, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 250 flight hours to monitor crack propagation.

4. If multiple crack indications in the bolt holes are found in the horizontal flange, with no crack extending out from under the AUB7013-1 angle, and there are no crack indications in the opposite fitting, accomplish one of the following:

a. Prior to further flight, install SR10540003-3 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-501 truss fitting, or install SR10540003-4 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-502 truss fitting, as applicable. After installation of the strap, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 1,000 flight hours to monitor crack propagation; or

b. Prior to further flight, enlarge the diameter of the fastener holes to remove the crack indications and install new fasteners in accordance with A54-99.

(1) If the crack indications are eliminated, repetitively inspect the repaired truss fitting for cracks in the forward horizontal flange attaching bolt holes in accordance with A54-99 at intervals not to exceed 1,500 landings or 4,500 flight hours, whichever occurs first.

(2) If the crack indications still exist in the truss fitting after enlarging the fastener holes, install SR10540003-3 Rev. A. or B. strap on the horizontal flange of the AUB7000-501 truss fitting, or install SR10540003-4 Rev. A. or B. strap on the AUB7000-502 truss fitting, as applicable. After installation of the strap, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 1,000 flight hours to monitor crack propagation.

5. If multiple crack indications in the bolt holes are found in the horizontal flange with a crack extending out from under the AUB7013-1 angle, but not progressing beyond the tangent point of the fillet radius to the vertical flange, as shown in Figure 2 (Condition V) of A54-99, and there are no crack indications in the opposite fitting, accomplish the following:

a. Prior to further flight, install SR10540003-3 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-501 truss fitting, or install SR10540003-4 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-99; and

b. After installation of the strap, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 250 flight hours to monitor crack propagation.

6. If a crack is found to have extended out from under the AUB7013-1 angle in the horizontal flange, through the fillet radius into the vertical flange, as shown in Figure 2 (Condition VI) of A54-99: Prior to further flight, replace the cracked/repaired truss fitting with a new fitting and continue inspections in accordance with this AD.

7. If cracks are found in both horizontal flanges of the AUB7000 truss fittings, accomplish the following:

a. Prior to further flight, replace at least one of the cracked/repaired truss fittings with a new fitting and continue inspections in accordance with the subparagraph applicable to the condition remaining; or

b. Prior to further flight, enlarge the diameter of the fastener holes to remove the crack indications; install new fasteners in accordance with A54-99; and accomplish the following, as appropriate:

(1) If the crack indications are eliminated, repetitively inspect the repaired truss fitting for cracks in the forward horizontal flange attaching bolt holes in accordance with A54-99 at intervals not to exceed 1,500 landings or 4,500 flight hours, whichever occurs first.

(2) If the crack indications still exist in a single truss fitting after enlarging the fastener holes, install SR10540003-3 Rev. A. or B. strap on the horizontal flange of the AUB7000-501 truss fitting, or install SR10540003-4 Rev. A. or B. strap on the AUB7000-502 truss fitting, as applicable, in accordance with A54-99. After installation of the strap, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 1,000 flight hours to monitor crack propagation.

(3) If crack indications still exist in both fittings after enlarging fastener holes, install SR10540003-3 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-501 truss fitting, and install SR10540003-4 Rev. A. or B. strap on the horizontal flange of the cracked AUB7000-502 truss fitting, in accordance with A54-99;

(a) After installation of the straps, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 500 flight hours to monitor crack propagation.

(b) At the later of the times specified below, replace at least one of the truss fittings in accordance with A54-99:

(i) Within 1,200 landings or 3,600 flight hours, whichever occurs first, or

(ii) Within one year after the effective date of this AD.

B. At the time of the next inspection required by paragraph A.1. through A.7. of this AD following the effective date of this AD, conduct an eddy current inspection of the vertical flange of the AUB7000-501 and/or AUB7000-502 truss fitting, as applicable, in accordance with the "Accomplishment Instructions" of McDonnell Douglas Alert Service Bulletin A54-103, dated March 7, 1990 (hereafter referred to as A54-103).

C. As a result of the inspections of the vertical flange required by paragraph B. of this AD, accomplish the following. Conduct subsequent inspections in accordance with the subparagraph applicable to the condition detected.

1. If no cracks are found in the vertical flange, conduct repetitive eddy current inspections of the vertical flange in accordance with A54-103 concurrently with each inspection required by paragraphs A.1. through A.7. of this AD.

2. If crack indication(s) are found in the vertical flange, with no crack indication extending through the fillet radius into the horizontal flange and a crack indication exists in the horizontal flange, accomplish the following:

a. Prior to further flight, install SR10540003-3 Rev. A. or B. and SR10540003-5 straps on the cracked AUB7000-501 truss fitting, or install SR10540003-4 Rev. A. or B. and SR10540003-6 on the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-103; and

b. Conduct repetitive eddy current inspections in accordance with A54-103 at intervals not to exceed 250 flight hours to monitor the crack propagation.

3. If crack indication(s) are found in the vertical flange, with no crack indication extending through the fillet radius into the horizontal flange; and if no crack indication exists in the horizontal flange; accomplish the following:

a. Prior to further flight, install SR10540003-3 Rev. A. or B. and SR10540003-5 straps on the cracked AUB7000-501 truss fitting, or install SR10540003-4 Rev. A. or B. and SR10540003-6 on the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-103; and

b. Conduct repetitive eddy current inspections in accordance with A54-103 at intervals not to exceed 1,000 flight hours to monitor crack propagation.

4. If a crack in the vertical flange is found to have extended through the fillet radius into the horizontal flange: Prior to further flight, replace the cracked/repaired truss fitting with a new fitting and continue inspections in accordance with this AD.

D. Except as in provided in paragraph A.7., after the installation of a repair strap on the P/N AUB7000-501, or -502 truss fitting, replace the truss fitting in accordance with A54-99 prior to the later of the times specified in subparagraphs D.1. and D.2., below:

1. Prior to the accumulation of 2,400 landings or 7,200 flight hours, whichever occurs first; or

2. Within 2 years.

E. Replace the P/Ns AUB7000-501 and -502 truss fittings with P/Ns AUB7000-503 and -504 in accordance with A54-99, at the later of the times specified in subparagraphs E.1. and E.2., below. Such replacement constitutes terminating action for the repetitive eddy current inspections required by the AD.

1. Prior to the accumulation of 9,000 landings or 30,000 flight hours, whichever occurs first; or

2. Within 6 years after the effective date of this AD.

F. 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.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HDR (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach California.

This amendment supersedes Amendment 39-6634, AD 90-13-03.

This amendment becomes effective May 10, 1991.

Issued in Renton, Washington, on March 26, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-8123 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-ANE-07]

Amendment to Control Zone; Norwood, MA

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Final rule; suspension of effectiveness.

SUMMARY: This corrective action changes the effective date of the amendment to the Norwood, Massachusetts Control Zone, for charting purposes.

EFFECTIVE DATES: The effective date of 0901 UTC, March 14, 1991, is suspended until 0901 UTC, May 30, 1991.

FOR FURTHER INFORMATION CONTACT: Charles Taylor, System Management Branch, ANE-530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA, 01803-5299; telephone: (617) 270-2428.

SUPPLEMENTARY INFORMATION:

History

Airspace Docket No. 90-ANE-07, published in the **Federal Register** on February 8, 1991 (56 FR 5153), amended the Norwood, Massachusetts Control Zone. This action was originally scheduled to become effective on March 14, 1991. The effective date of this action is suspended until May 30, 1991, for charting purposes.

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. Therefore, this regulation—(1) is not a "major rule" under the Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Suspension of Effectiveness

The effective date on Airspace Docket No. 90-ANE-07 is hereby suspended until May 30, 1991.

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

John J. Boyce,

Acting Manager, Air Traffic Division, New England Region.

[FR Doc. 91-8118 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 91-AGL-2]

Transition Area Establishment; Sault Ste Marie Municipal/Sanderson Field Airport, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to establish the Sault Ste Marie Municipal/Sanderson Field Airport, MI, transition area to accommodate a new VOR Runway 32 Standard Instrument Approach Procedure (SIAP) to Sault Ste Marie Municipal/Sanderson Field Airport, Sault Ste Marie, MI. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

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

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

SUPPLEMENTARY INFORMATION:

History

On Tuesday, February 19, 1991, the Federal Aviation Administration (FAA) proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a transition area airspace near Sault Ste Marie Municipal/Sanderson Field Airport, Sault Ste Marie, MI (56 FR 6593).

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 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 alters the designated transition area airspace near Sault Ste Marie, MI. The transition area is being established to accommodate a new VOR Runway 32 SIAP to Sault Ste Marie Municipal/Sanderson Field Airport, Sault Ste Marie, MI.

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

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

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 when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

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—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Sault Ste Marie Municipal/Sanderson Field Airport, MI [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sault Ste Marie Municipal/Sanderson Field Airport (lat. 45° 28' 46" N., long. 84° 22' 08" W.); and within 2.5 miles each side of the 151° bearing from the airport, extending from the 5-mile radius to 13 miles southeast of the airport, excluding Canadian Sault Ste Marie, Ontario, transition area and any Canadian airspace.

Issued in Des Plaines, Illinois, on March 26, 1991.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 91-8119 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1205

Space Science Flight Investigations

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule

SUMMARY: NASA is removing 14 CFR part 1205 since it has served its purpose and is no longer in keeping with current policy.

EFFECTIVE DATE: April 8, 1991.

ADDRESSES: Office of Space Science and Applications, Code S, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Kathryn S. Schmoll, 202–453–1410.

List of Subjects in 14 CFR Part 1205

Research, Space transportation and exploration:

14 CFR part 1205 (consisting of SS 1205.100 through 1205.103 and appendices A and B), is hereby removed and reserved.

Dated: March 29, 1991.

Richard H. Truly,

Administrator.

[FR Doc. 91–8019 Filed 4–5–91; 8:45 am]

BILLING CODE 7510-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15, 16 and 19

Changes in Reporting Levels for Large Trader Reports; Option Month-end Reporting By Contract Markets; Reporting Cash Positions in the Grains (Including Soybeans) and Cotton

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission) is amending parts 15, 16 and 19, 17 CFR parts 15, 16 and 19 (1990), of its regulations. The Commission is raising the reporting levels at which Future Commission Merchants (FCMs), clearing members, foreign brokers and traders must file large trader reports, is deleting the requirement that exchanges file option month-end reports and is modifying certain requirements concerning cash position reports.

EFFECTIVE DATE: May 8, 1991.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Division of Economic Analysis, 2033 K Street, NW., Washington, DC 20581, telephone (202) 254–3310.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Notice

Public reporting burden for this collection of information has been estimated to average .1496 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581; and to Office of Management and Budget, Paperwork Reduction Project (3038–0009), Washington, DC 20503.

II. Background

As a result of a review of its reporting requirements set forth in parts 15, 16, and 19 of the regulations under the Commodity Exchange Act ("Act") the Commission proposed to amend a number of its rules. 55 FR 50702 (December 10, 1990). In particular, the Commission proposed to:

(1) Amend § 15.03 of the regulations, 17 CFR 15.03 (1990), by raising the levels at which reports must be filed by FCMs, clearing members, foreign brokers and traders ("large-trader data") in coffee, long-term U.S. Treasury notes, medium-term U.S. Treasury notes and Eurodollars;

(2) Repeal Commission rule 16.04, 17 CFR 16.04 (1990), which requires each designated contract market to submit to the Commission separate monthly reports for options on futures contracts and options on physicals detailing all open option positions held at month-end by category of commercial and noncommercial trader; and

(3) Amend Commission rule 19.00, 17 CFR 19.00 (1990), by revising it to make the filing of weekly cash position reports more timely by requiring that CFTC forms 204 and 304 be received in the appropriate Commission office on the second business day following the end of the week of the report. In addition, under amendments to § 19.02 of the Commission's regulations, 17 CFR 19.02 (1990), persons required to file cotton cash reports (CFTC form 304) would be required to provide information on the quantity of equity in cotton held by the Commodity Credit Corporation under the provision of the Upland Cotton Program of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture (equity cotton). Last, the Commission proposed to raise the reporting levels at which processors of cotton would file CFTC form 304 reports.

The Commission received comment letters from 7 interested persons in response to this notification. These included three commodity exchanges, two trade associations affiliated with the cotton industry and a large grain merchandiser.

Reporting Levels

Reporting levels are set in futures to ensure that the Commission receives adequate information to carry out its market surveillance programs. These are designed to detect and prevent market congestion and price manipulation and to enforce speculative position limits. In addition, the information serves as a basis to gauge overall hedging and speculative uses of the futures markets, use of the markets by foreign participants and other matters of public concern.

Generally, parts 17 and 18 of the regulations require reports from members of contracts, FCMs or foreign brokers and traders, respectively, when a trader holds a "reportable position," *i.e.*, any open position held or controlled by a trader at the close of business in any one future of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the Commission in § 15.03 of the regulations.[1]

The Commission periodically reviews information concerning trading volume, open interest and the number and position sizes of individual traders relative to the reporting levels for each market to determine if coverage is adequate for effective market surveillance. In this regard, the Commission also is mindful of the paperwork burden associated with these reporting requirements and reviews them with an eye to ameliorating that burden to the extent compatible with adequate market coverage. The Commission's most recent review of reporting levels indicated that the size of trading volume, open interest and

[1] Members of contract markets, FCMs and foreign brokers who carry accounts in which traders hold "reportable positions" are required to identify such accounts on a form 102 and report on the series '01 forms any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC form 40 giving certain background information concerning their trading in commodity futures and, on call by the Commission, must submit a form 103 showing positions and transactions in the contract market specified in the call.

positions of individual traders in futures traded on coffee, long-term U.S. Treasury notes, medium-term U.S. Treasury notes and Eurodollars enabled the Commission to raise reporting levels as follows: In coffee from 25 contracts to 50 contracts; in long-term (i.e., 6½–10 year) U.S. Treasury notes from 300 contracts to 400 contracts; in medium-term (*i.e.* 5 year) U.S. Treasury notes from 25 contracts to 300 contracts); and in Eurodollars from 400 contracts to 500 contracts.

One futures exchange commended on this aspect of the Commission's proposed rulemaking, supporting the Commission's proposal to raise reporting levels, particularly in reference to long-term and medium-term U.S. Treasury notes. There were no opposing views expressed. The Commission is therefore adopting the amendments to rule 15.03 as proposed.

Option Month-end Reporting

The Commission has been petitioned by several exchanges under rule 13.2, 17 CFR 13.2 (1990), to repeal Commission rule 16.04, 17 CFR 16.04 (1990). That rule requires each designated contract market to submit to the Commission separate monthly reports for options on futures contracts and options on physicals detailing all open option positions held at month-end by category of commercial and noncommercial trader. The petitioners, the Coffee, Sugar and Cocoa Exchange, Inc., and Comex, Inc., asserted in their petition that, in light of the permanent status of the Commission's rules permitting exchange-traded commodity options, it is no longer necessary to collect the information required by those reports. The petition for repeal of rule 16.04 was supported by correspondence from the Chicago Board of Trade and the Chicago Mercantile Exchange. Additionally, the petitioners, as well as those supporting the petition, cited the cost to the exchanges to compile, edit and transmit those data to the Commission on a continuing basis as a reason for repeal of the rule.

As previously mentioned in its notice of proposed rulemaking, the Commission provides under rule 16.04 that the exchanges compile monthly data on option trading that is similar to that produced by the Commission with regard to futures trading. These reports are made available to the public by the Commission, along with the futures-related "Commitments of Traders Reports," which are generated by the Commission. In addition, such reports are used by the Commission from time to time to illustrate uses made of the futures and options markets to Congress and others.

In proposing to delete this requirement, the Commission noted that there was virtually no public demand for the options month-end data. Moreover, for its own purposes, the Commission can obtain the information it requires through its option large trader reporting system. However, since the Commission no longer intends to tabulate and distribute this option data, it specifically invited interested parties to comment on the importance of the data and whether these or alternative data concerning options larger trader positions should be made available to the public. Only three comments on this proposal were received by the Commission, all of them from futures exchanges. All three supported repeal of rule 16.04 citing their costs in producing the report and the lack of public interest in the data. No persons suggested that this or alternative options month-end data would serve a useful purpose. In view of the above, the Commission has determined to repeal rule 16.04 as proposed.

Cash Position Reports

The Commission requires that persons owning or controlling futures positions in commodities for which the Commission has established speculative limits file reports concerning their long and short cash positions, *i.e.*, stocks of the commodities owned and the quantity of their fixed-price purchase and sale commitments, 17 CFR part 19 (1990). These commodities include the grains, the soybean complex and cotton. 17 CFR part 150 (1990). The primary purpose for these reports is to determine if the futures positions of traders that exceed the Commission's speculative limits qualify as hedging as defined in § 1.3(z) of the Commission's regulations.[2] Additionally, merchants, processors and dealers in cotton must provide information on the quantity of their "call purchases and sales." [3] Information concerning call purchases and sales is used as a basis for the Commission's weekly "Cotton on Call" report.

With the exception of merchants, dealers and processors in cotton, reporting levels for cash position reports (CFTC forms 204 and 304) are set at the speculative limit levels defined in rule 150.2, 17 CFR 150.2 (1990). Merchants, dealers and processors in cotton must file reports at the lower levels specified in rule 15.03. This lower level for cotton is to ensure adequate coverage of call sales and purchases on the "Cotton on Call" report. The Commission proposed amendments to part 19 which would increase the timeliness of the report, reduce the reporting burden on cotton processors and require the reporting of "equity cotton." [4] Four persons commented on the Commission's proposed changes to part 19 of its regulations.[5]

Time of Filing

Currently rule 19.10 allows forms 204 and 304 to be mailed and postmarked by midnight of the second business day and the first business day, respectively, following the week of the report. Reports that are mailed, particularly from traders in foreign locations, are not timely either for enforcing speculative position limits or for inclusion in the "Cotton on Call" report, which is released on Thursdays. In view of this, the Commission proposed to amend rule 19.10 to require that forms 204 and 304 be received in the appropriate Commission office on the second business day following the week of the report, with the proviso that such reports may be telefaxed or the information reported by telephone to the Commission and the report mailed. The Commission requested comments on

[2] Among other things, the Commission enumerates as bona fide hedges those short futures positions that do not exceed the quantities of the commodity owned and the quantities of fixed-price purchases of the commodity and those long futures positions that do not exceed the quantities of fixed-price sales of the commodity. 17 CFR 1.3(z) (1990).

[3] Call purchases and sales are unfixed price purchase and sales commitments transacted as a basis price referenced to a particular cotton futures delivery month.

[4] As noted above, equity cotton refers to the quantity of equity in cotton held by the Commodity Credit Corporation under the provision of the Upland Cotton Program of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculutre.

Cotton producers who wish to receive the program's benefits must deposit graded cotton in a licensed warehouse. A producer with cotton in the loan program may redeem the cotton, forfeit the cotton to the government, or at any time sell the equity in such cotton. Merchants who buy equity cotton commit to repaying the loan and redeeming the cotton unless the equity cotton is resold. Equity cotton is redeemed from the loan program within the duration of the loan period at the lower of the adjusted world price (AWP) or the sum of the loan rate and up to ten months' carrying charges.

[5] One commenter, the Chicago Board of Trade (CBOT), urged the Commission to examine the usefulness of its cash position reports opining that the forms provided "little relevant data for surveillance purposes and constitute an unfair burden on the CBOT's members and markets users." The Commission agrees that this general issue should be examined and at a later date will consider the general utility of its forms 204 and 304 and alternative means of collecting data to enforce speculative position limits and publish the cotton on call report. However, it has nevertheless determined to amend the current rules as an interim step.

any additional burdens this may impose on traders.

One person commented on the proposed changes to rule 19.10. This commenter, a major grain merchandiser and corn and soybean processor stated that the proposed changes in the time of filing of the Commission's 204 report would require a significant additional burden. The firm noted that they must collect and compile information from multiple sites, then prepare and verify the information for the 204 report. Currently the firm is able to supply its 204 report at the Commission's Chicago Office on the third business day after the date of the report. The proposed rule changes would allow only 2 business days for preparation and filing of the series 04 reports rather than the 3 days allowed under current regulations for the 204 report and the 1 day allowed for the 304 report.

The Commission's concern with the timeliness of reports filed pursuant to part 19 lies with traders who mail their reports primarily from foreign locations. As the Commission explained in its notice of proposed rule making, such reports are neither timely for enforcement of speculative position limits nor for inclusion in the Cotton on Call report. The Commission does not believe that it is detrimental to its surveillance program if the 204 report is received by the third day following the date of the report. In view of this, the Commission is amending its proposal to require that the 204 report be received in the appropriate Commission office on the third business day following the date of the report and the 304 report on the second business day following the date of the report.[6]

Reports from Cotton Processors

Cotton merchants, dealers and processors file CFTC form 304 at a lower reporting level than other traders in cotton to afford adequate coverage of call purchases and sales for the Commission's weekly "Cotton On Call" report. Cotton processors, however, provide little or no information on call sales on the CFTC form 304. Moreover, processors' call purchases are not used by the Commission in its weekly report since call purchases may duplicate information provided by merchants and dealers. The Commission proposed to amend rules 15.01(d) and 19.00(a)(2), and the title to part 19 to require cotton processors to file reports pursuant to part 19 only if their futures position exceeds the higher levels specified in rule 150.2 rather than those specified in rule 15.03. No person commented on these rule changes. The Commission, therefore, is adopting the rule amendments concerning cotton processors as proposed.[7]

Equity Cotton

In its proposal for rulemaking, the Commission noted that there has been some confusion within the cotton industry on how (or whether) holdings of equity cotton should be reported on CFTC form 304 reports. Some merchants report equity cotton as fixed price purchase commitments, some as call purchases, some as stocks and others, not at all. The Commission believes that it is important that traders report their holding of equity cotton on CFTC form 304 reports since equity cottom may represent a part of their hedgeable cash position. However, since the hedging characteristics of a cash position in equity cotton may differ from other cash cotton positions, the Commission proposed that the information on equity cotton be reported separately from other cash cotton positions.[8]

Two trade associations affiliated with the cotton industry submitted written comment on this proposal. Both supported the Commission's proposal for the reporting of equity cotton and that such cotton be reported separately from other cash commitments. Understanding the necessity for separate reporting, one commenter noted that an . . ."equity transaction . . . is best described as a cash option and whether it can or should be hedged is a marketing strategy best left to the individual equity purchaser." The Commission agrees and is adopting its amendments to rule 19.02 as proposed.[9]

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies, in proposing rules, consider the impact of those rules on small businesses. These amendments affect large traders and futures commission merchants and other similar entities such as foreign brokers and foreign traders. The Commission has defined "small entities" as used by the Commission in evaluating the impact of its rule in accordance with the RFA. 47 FR 18618–18621 (April 30, 1982).

In that statement, the Commission concluded that large traders and futures commission merchants are not considered to be small entities for purposes of the RFA. In this regard, the amendments to reporting requirements fall mainly upon futures commission merchants. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable, *i.e.*, large positions. Pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certified in its issuance of proposed rulemaking that the proposed rules would not have a significant economic impact on a substantial number of small entities. The Commission invited comments from any firm which believed that these rules would have a significant economic impact upon its operations. No comments were received.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission submitted these proposed rules and their associated information collection requirements to the Office of Management and Budget on December 12, 1990. The burden associated with this entire collection, including these amended rules, is as follows:

Average Burden Hours Per Response	.1496
Number of Respondents	4,068
Frequency of Response	22.46

Persons wishing to comment on the information which would be required by these rules should contact Gary

[6] The Commission is adopting as proposed amendments to the introductory language to § 19.10 to clarify that this section does not apply to reports filed in response to special calls made under § 19.00 (a)(3). Rule 19.00(a)(3) specifies that reports must be filed within one business day of receipt of the special call.

[7] The Commission is also amending rule 15.01(d) by using two paragraphs to set forth the current requirements. Proposed paragraph 15.01(d)(1) describes persons reportable under part 19 at the levels set forth in § 150.2, and paragraph 15.01(d)(2), those persons reportable at the levels set forth in § 15.03. The Commission is also correcting rule 15.01(d) by deleting reference to § 15.03(b). Deletion of this reference was inadvertently omitted when § 15.03(b) was previously deleted from the regulations. (52 FR 38923, October 20, 1987).

[8] As noted in the proposal for rulemaking, so long as the AWP is higher than the loan rate plus carrying charges, a purchase of equities is in effect a fixed-price purchase because the total cost of the cotton is expected to be the loan rate plus carrying charges plus the price paid for the equities. A merchant who purchases such equitieis may hedge them for the same reason it is desireable to hedge any cotton purchases; if cotton prices go down, a loss will result.

[9] The Commission is also adopting corrections and clarifying amendments to rules 19.00 and 19.02. The corrections to rule 19.00 delete reference to §§ 19.01 through 19.04 and the sentence immediately following this reference. The above material was inadvertently retained when §§ 19.03 and 19.04 were deleted. (52 FR 38923, October 20, 1987). The current amendments also change the introductory text to paragraph 19.02(a) to clarify the information required.

Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503 (202) 395-7304. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581, (202) 254-3310.

List of Subjects

17 CFR Part 15

Brokers, Reporting and recordkeeping requirements.

17 CFR Part 16

Commodity Futures, Reporting and recordkeeping requirements.

17 CFR Part 19

Brokers, Commodity Futures, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5 and 8a of the Act, 7 U.S.C. 6g, 6i, 7 and 12a (1990), the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

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

Authority: 7 U.S.C. 2, 4, 5, 6a, 6c(a)–(d), 6f, 6g, 6i, 6k, 6m, 6n, 7, 9, 12a, 19 and 21; 5 U.S.C. 552 and 552(b).

2. Section 15.01 is amended by revising the introductory text and paragraph (d) as follows:

§ 15.01 [Amended]

§ 15.01 Persons required to report.

Pursuant to the provisions of the Act, the following persons shall file reports with the Commission with respect to such commodities, on such forms, at such time, and in accordance with such directions as are hereinafter set forth:

* * * * *

(d) Persons, as specified in part 19, either:

(1) Who hold or control positions for future delivery that exceed the amounts set forth in § 150.2 for the commodities enumerated in that section, any part of which constitutes bona fide hedging positions (as defined in § 1.3(z)); or

(2) Who are merchants or dealers of cotton holding or controlling positions for future delivery in cotton that equal or exceed the amount set forth in § 15.03.

3. Section 15.03 is revised to read as follows:

§ 15.03 Quantities fixed for reporting.

The quantities for the purpose of reports filed under parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat (bushels)	500,000
Corn (bushels)	500,000
Soybeans (bushels)	500,000
Oats (bushels)	300,000
Cotton (bales)	5,000
Soybean oil (contracts)	150
Soybean meal (contracts)	150
Live cattle (contracts)	100
Feeder cattle (contracts)	50
Hogs (contracts)	50
Sugar No. 11 (contracts)	200
Sugar No. 14 (contracts)	100
Cocoa (contracts)	50
Coffee (contracts)	50
Copper (contracts)	100
Gold (contracts)	200
Silver bullion (contracts)	150
Platinum (contracts)	50
No. 2 heating oil (contracts)	150
Crude oil (contracts)	250
Unleaded gasoline (contracts)	100
Long-term U.S. Treasury bonds (contracts)	500
GNMA (contracts)	100
Three-month (13 week) U.S. Treasury bills (contracts)	100
Long-term U.S. Treasury notes (contracts)	400
Medium-term U.S. Treasury notes (contracts)	300
Three-month Eurodollar time deposit rates (contracts)	500
Foreign currencies (contracts)	200
Standard and Poor's 500 stock price index (contracts)	300
New York Stock Exchange composite index (contracts)	50
Amex major market index-maxi (contracts)	50
Municipal bonds (contracts)	50
Value line average index (contracts)	50
All other commodities (contracts)	25

PART 16—REPORTS BY CONTRACT MARKETS

4. The authority citation for part 16 continues to read as follows:

Authority: 7 U.S.C. 6a, 6c, 6g, 6i, 7 and 12A.

§ 16.04 [Removed and Reserved]

5. Section 16.04 is removed and reserved.

6. The heading for part 19 is revised to read as follows:

PART 19—REPORTS BY PERSONS HOLDING BONA FIDE HEDGE POSITIONS PURSUANT TO § 1.3(Z) OF THIS CHAPTER AND BY MERCHANTS AND DEALERS IN COTTON

7. The authority citation for part 19 continues to read as follows:

Authority: 7 U.S.C. 6g(i) and 12a(5).

8. Section 19.00 is amended by revising paragraphs (a)(2) and (b) introductory text as follows:

§ 19.00 General provisions.

(a) * * *

(2) Merchants and dealers of cotton holding or controlling positions for futures delivery in cotton that are reportable pursuant to § 15.00(b)(1)(i) of this chapter, or

* * * * *

(b) Information required. Persons required to file series '04 reports shall show the information specified in § 19.01 of this part if the reportable futures position is in wheat, corn, oats, soybeans, soybean meal or soybean oil; and § 19.02 of this part if the reportable futures position is in cotton. The manner of reporting the information required in § § 19.01 and 19.02 of this part is subject to the following:

* * * * *

9. Section 19.02 is revised to read as follows:

§ 19.02 Cash reports pertaining to futures positions in cotton.

Persons required to file '04 reports under § 19.00(a) of this chapter shall file CFTC form 304 reports containing the following information:

(a) The quantity of equity in cotton held by the Commodity Credit Corporation under the provisions of the Upland Cotton Program of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) The quantity of certificated cotton owned.

(c) For all cotton, cotton products and each commodity cross hedged in cotton futures—the quantity of open fixed-price spot positions (long and short) including:

(1) Unfilled open fixed-price purchase commitments;

(2) Stocks on hand (owned and at fixed prices), and the quantity of the commodity in process of manufacture, and finished products; and

(3) Unfilled fixed-price-sale commitments of the commodity and of finished products.

(d) The quantity of call cotton bought or sold on which the price has not been fixed, together with the respective futures on which based. As used herein, call cotton refers to spot cotton bought or sold, or contracted for purchase or sale, at a price to be fixed later based upon a specified future.

10 Section 19.10 is proposed to be amended by revising the introductory language as follows:

§ 19.10 Time and place of filing reports.

Except for reports filed in response to special calls made under § 19.00(a)(3), each report shall be filed at the appropriate Commission office specified

in paragraph (a) or (b) below not later than the second business day following the date of the report in the case of the 304 report and not later than the third business day following the date of the report in the case of the 204 report. Reports may be transmitted by facsimile or, alternatively, information on the form may be reported to the appropriate Commission office by telephone and the report mailed to the same office, postmarked not later than midnight of its due date.

* * * * *

Issued in Washington, DC, this second day of April 1991, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91-8098 Filed 4-5-91; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 777

[FHWA Docket No. 91-11]

RIN 2125-AC69

Mitigation of Impacts to Privately Owned Wetlands

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FHWA is amending its regulation on wetlands to make Federal funding available to a greater extent for mitigation of impacts to privately owned wetlands by revising the basis of FHWA financial participation. This action is in response to requests by States for more flexibility in funding wetland replacement activities and in response to the President's concerns on wetlands. This rule is expected to make FHWA funding policy more consistent with the needs of highway programs and Federal wetlands conservation policy, and to encourage wetland protection.

DATES: The effective date of this final rule is April 8, 1991. Written comments must be submitted by July 8, 1991.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 91-11, Federal Highway Administration, room 4232, HCC-10, Office of Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard .

FOR FURTHER INFORMATION CONTACT: Mr. Charles Des Jardins, Office of Environmental Policy, HEP-42, (202) 366-9173, or Ms. Virginia I. Cherwek, Office of the Chief Counsel, HCC-31, (202) 366-1372, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

Prior to this amendment, 23 CFR 777.11(f) limited Federal-aid participation in the cost of acquiring lands or interests in lands to the costs necessary to acquire one acre of replacement land for each acre of privately owned wetlands directly affected by a Federal-aid highway project. Any additional wetland acreage acquired by the States to mitigate impacts of the project had to be funded from State-only sources. Under this policy, many States have coordinated extensively with Federal, State, and local agencies in developing Federal-aid highway projects, particularly during the section 404 (33 U.S.C. 1344) permitting process, to generate wetland mitigation plans, only to find that FHWA could not provide full Federal-aid funding for the plans, even though these activities were necessary to advance the projects.

The FHWA is issuing a final rule amending this regulation because many States have expressed the need for greater FHWA financial support for their wetland protection and mitigation activities than this limitation allowed. In addition, there have been many instances in which FHWA's commitment to the protection and mitigation of wetlands has been questioned because of the limitation.

This amendment will provide fuller FHWA financial support for replacement of privately owned wetlands which are directly affected by Federal-aid highway projects, subject to the normal rules of Federal-aid participation. It will also promote the policy of the FHWA to mitigate the impacts of transportation projects and to enhance the environment, as described in the Environmental Policy Statement issued by the FHWA on April 20, 1990. (FHWA publication No. FHWA-RE-90-005 is available from FHWA's Office of Public Affairs, 400 Seventh Street, SW., Washington, DC 20590.)

The revised language for 777.11(f) calls for tests of "reasonableness" of cost and "equivalency" of wetlands functions. Federal-aid funds may participate in the reasonable cost of replacement of the wetland functions which are lost. The FHWA will base participation decisions on professional judgment as to the appropriate extent of replacement, using the best available and appropriate scientific tools for wetlands evaluation and impact assessment. The value of the impacted wetlands and the anticipated project impacts are the key factors in determining the level of mitigation effort required to compensate losses. The FHWA will provide Federal-aid funding to the extent reasonable for mitigation. There may be situations in which replacement of a wetland function will require acquisition of wetland acreage that exceeds the amount directly taken by the project. Other situations may warrant fewer acres. The important point is that FHWA participation will be based upon professional judgment and scientific determinations as to the appropriate level of mitigation, not upon arbitrary thresholds.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 and is not a significant regulation under the policies and procedures of the Department of Transportation relating to regulations.

Although the Federal-aid highway program is a grant program, FHWA generally provides an opportunity for comment when promulgating a rule if the opportunity for comment is likely to result in useful information, if the rule is significant pursuant to Department of Transportation policy or likely to be controversial, or if otherwise in the public interest. In this case, the FHWA believes that circumstances warrant the issuance of this rule immediately without notice and an opportunity for prior public comment.

This amendment would modify part 777 so as to conform more closely to the needs of the States' programs and the current FHWA policy and practice of mitigating impacts to publicly owned wetlands. This amendment requires little, if any, administrative interpretation or discretion. The FHWA believes that it will not be controversial. Many State highway agencies (SHA's) have requested or agreed with the change, and are not expected to object to Federal funding being made available to a greater extent. In fact, the American Association of State Highway and Transportation Officials has passed a resolution in favor of more flexibility in this area. The FHWA believes that State

and Federal agencies with natural resources responsibilities also favor the change.

For these reasons, the FHWA anticipates that there will be no comment on the substantive issue of the rule, and a request for prior public comments would only delay the benefit of this amendment. Accordingly, the provisions that are contained in this publication are effective as provided by the section entitled DATES. Although the rulemaking section of the Administrative Procedure Act (5 U.S.C. 553) does not apply to grant programs, the above discussion would justify a finding for good cause under 5 U.S.C. 553(b) for not providing notice or seeking public comment before publishing the final rule. The FHWA, however, is providing the opportunity to comment after the effective date, and will publish a notice in the **Federal Register** explaining the disposition of any substantive comments that are received.

Further, there is no need to delay the effective date of the amendment for 30 days because no action is required by grantees of the Federal-aid highway program to comply, and, therefore, no lead time is necessary. Moreover, even under 5 U.S.C. 553(d), delay would not be required because the amendment merely lifts a restriction.

It is anticipated that the economic impact of this rule, if any, will be minimal since the amendment concerns rules of practice and procedures of a grant-in-aid program. It does not require the States to replace wetlands, but if they do, it provides for greater expenditure of Federal funds in place of State funds for replacement which would otherwise be done in response to State requirements and/or the section 404 program. Thus, there will be minimal, or no impact on highway financial resources as a whole. Although it is not possible to estimate the amount of funding which is expended on wetlands replacement because these costs are integrated into other project development costs, the amount of funding is relatively small, and FHWA does not anticipate that a significant increase will occur due to this amendment. It merely makes the FHWA procedures and policies more consistent with State practice and Federal policy. Accordingly, further regulatory evaluation is not required.

Regulatory Flexibility Act

For the foregoing reasons and under the criteria of the Regulatory Flexibility Act (Pub. L. 96-354), the FHWA hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

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

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act (44 U.S.C. 3504(h)), the FHWA finds that no additional burdens (reporting or recordkeeping) are being placed on the States or local agencies.

National Environmental Policy Act

This amendment does not require the taking or replacement of wetlands, but changes the relative amounts paid for replacement of wetlands by the State and Federal governments. It is not a major action having a significant effect on the environment, and therefore does not require the preparation of an environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Regulation Identifier Number

A regulation identifier number [RIN] is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number for this section can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 777

Flood plains, Grant programs—transportation, Highways and roads, Wetlands.

In consideration of the foregoing, chapter I of title 23, Code of Federal Regulations, is amended as set forth below.

PART 777—MITIGATION OF IMPACTS TO PRIVATELY OWNED WETLANDS

1. The authority citation for part 777 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq;* 23 U.S.C. 109(h), 138, and 315; E.O. 11990; DOT Order 5660.1A; 49 CFR 1.48(b).

2. Section 777.11 is amended by revising paragraph (f) to read as follows:

§ 777.11 Other considerations.

* * * * *

(f) The reasonable cost of acquiring lands, or interests therein, to provide replacement lands with equivalent wetlands functions for privately owned wetlands that are directly affected by a Federal-aid highway project is eligible for Federal participation.

* * * * *

Issued on: April 1, 1991.

T. D. Larson,

Administrator.

[FR Doc. 91-8099 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-22-M

Coast Guard

33 CFR Parts 100 and 165

[CGD 91-022]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between January 1, 1991 and March 31, 1991 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the past published list.

ADDRESSES: The complete text of any temporary regulation may be examined at, and is available on request, from Executive Secretary, Marine Safety Council (G-LRA-2), U.S. Coast Guard

Headquarters, 2100 Second Street SW., Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: LCDR Don Wrye, Acting Executive Secretary, Marine Safety Council at (202) 267-1477 between the hours of 8 a.m. and 4 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. Non-major safety zones, special local regulations, and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period January 1, 1991 through March 31, 1991 unless otherwise indicated.

Docket No.	Location	Type	Effective date
CGD1-91-017	Shinnecock Inlet	Safety	14 Mar. 91.
CGD1-91-011	Lower Hudson River	Security	27 Feb. 91.
CGD1-91-007	Passaic/Hackensack River	Security	06 Feb. 91.
CGD1-91-006	Stamford Harbor	Safety	02 Feb. 91.
CGD1-90-205	N. Channel, Jamaica Bay	Safety	10 Dec. 90.
CGD1-90-200	Hudson River, New York	Safety	31 Dec. 90.
CGD1-90-199	East River, New York	Safety	31 Dec. 90.
CGD1-90-197	Upper Bay, New York	Security	26 Nov. 90.
CGD1-90-196	Upper Bay, New York	Safety	26 Nov. 90.
CGD1-90-194	Upper Bay, New York	Security	25 Nov. 90.
CGD7-91-10	President's Cup Regatta	Special	23 Mar. 91.
CGD7-91-02	Hillsborough Bay	Special	26 Jan. 91.
CGD7-90-109	St. John River	Special	29 Dec. 90.
COTP Boston 90-198	Boston Inner Harbor	Safety	31 Dec. 90.
COTP Charleston 91-08	Wapoo Creek, SC	Safety	10 Feb. 91.
COTP H'Pton Rd 91-011	Back River	Safety	21 Mar. 91.
COTP H'Pton Rd 91-5-01	Norfolk Harbor Reach	Safety	28 Mar. 91.
COTP Huntington 90-15	Great Kanawha River	Safety	26 Nov. 90.
COTP Jack'ville 90-126	St. Johns River	Safety	31 Dec. 90.
COTP LA/LB 91-07	Ports of LA/LB	Safety	17 Mar. 91.
COTP LA/LB 91-05	Ports of LA/LB	Safety	08 Jan. 91.
COTP LA/LB 91-04	Ports of LA/LB	Safety	09 Jan. 91.
COTP LA/LB 91-01	Ports of LA/LB	Safety	06 Jan. 91.
COTP LA/LB 90-16	Ports of LA/LB	Security	18 Dec. 90.
COTP Louisville 90-18	Louisville, KY	Safety	31 Dec. 90.
COTP Louisville 90-17	Louisville, KY	Safety	20 Dec. 90.
COTP Louisville 90-16	Louisville, KY	Safety	10 Dec. 90.
COTP Memphis 90-11	Lower Mississippi River	Safety	17 Nov. 90.
COTP Miami 91-097	Angelfish Creek	Safety	22 Feb. 91.
COTP Portland 90-07	Coos Bay, Oregon	Safety	19 Sep. 90.
COTP Prince Wm 91-02	Prince William Sound and Port Valdez	Safety	16 Jan. 91.
COTP Prince Wm 91-01	Prince William Sound and Port Valdez	Safety	16 Jan. 91.
COTP Providence 90-201	New Bedford Harbor	Safety	31 Dec. 90.
COTP Puget Sound 90-17	Puget Sound, Washington	Security	11 Dec. 90.
COTP Puget Sound 90-16	Puget Sound, Washington	Safety	11 Dec. 90.
COTP Puget Sound 90-15	Puget Sound, Washington	Security	06 Dec. 90.
COTP Puget Sound 90-14	Puget Sound, Washington	Safety	06 Dec. 90.
COTP Puget Sound 90-13	Puget Sound, Washington	Security	02 Dec. 90.
COTP Puget Sound 90-12	Puget Sound, Washington	Safety	02 Dec. 90.
COTP Puget Sound 90-06	Lake Washington, WA	Safety	25 Nov. 90.
COTP St Louis 90-46	Upper Mississippi River	Safety	31 Dec. 90.
COTP St Louis 90-45	Upper Mississippi River	Safety	04 Dec. 90.
COTP St Louis 90-44	Upper Mississippi River	Safety	28 Oct. 90.
COTP St Bay 91-03	San Francisco Bay	Security	27 Feb. 91.
COTP St Bay 91-01	San Francisco Bay	Security	07 Feb. 91.
COTP San Juan 91-06	San Juan Harbor	Security	28 Jan. 91.
COTP San Juan 91-02	San Juan Harbor	Security	15 Feb. 91.
COTP Wilmington 90-006	Atlantic Intracoastal Waterway	Safety	27 Feb. 91.

Dated: April 1, 1991.

D.M. Wrye,

Lieutenant Commander, USCG, Acting Executive Secretary, Marine Safety Council.

[FR Doc. 91-8163 Filed 4-5-91; 8:45 am]

BILLING CODE 4910

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33 CFR Part 165

[COTP Savannah Regulation 91-15]

Safety Zone Regulations; Savannah River, Savannah, GA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on the South Altamaha River, Glynn County, Georgia from May 6, 1991 to May 17, 1991. The safety zone encompasses all waters of the South Altamaha River west of U.S. Highway 17 Bridge (approximate position 31 degrees 19.7 minutes N, 081 degrees 27.0 minutes W) to the east side of the Interstate 95 Bridge (approximate position 31 degrees 20.2 minutes N, 081 degrees 28.0 minutes W). The Captain of the Port has restricted vessel operations in this safety zone during daylight hours due to a Federal Law Enforcement Training Center Exercise. No persons or vessels will be allowed to enter or operate within this area, except as may be permitted by the Captain of the Port Savannah, GA. Vessel operators desiring to operate within this zone are required to contact the Federal Law Enforcement Training Center officials on scene when approaching the safety zone. Vessels permitted to enter or operate within the safety zone shall comply with all directions given by Federal Law Enforcement Training Center officials.

EFFECTIVE DATE: This regulation is effective as of 6 a.m., Monday, May 6, 1991, and expires at 7 p.m., Friday, May 17, 1991, unless sooner terminated by the Captain of the Port, Savannah, GA.

FOR FURTHER INFORMATION CONTACT: LT T. F. Mann, (912) 944-4371. Normal working hours are between 0730 and 1600, Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent possible hazards to mariners.

Drafting Information

The drafters of this regulation are MSTC D. WALSH, project officer for the Captain of the Port, and LT G. TANOS, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

This regulation is effective as of 6 a.m., Monday, May 6, 1991, and expires at 7 p.m., Friday, May 17, 1991, unless sooner terminated by the Captain of the Port, Savannah, GA. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Security measures, Vessels and waterways.

Regulation

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

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

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

2. A new § 165.T0702, is added to read as follows:

§ 165.T0702 Safety Zone: South Altamaha River, Glynn County, Georgia.

(a) *Location.* The following area is a safety zone: All waters of the South Altamaha River west of U.S. Highway 17 Bridge (approximate position 31 degrees 19.7 minutes N, 081 degrees 27.0 minutes W) to the east side of the Interstate 95 Bridge (approximate position 31 degrees 20.2 minutes N, 081 degrees 28.0 minutes W).

(b) *Effective dates.* This regulation is effective as of 6 a.m., Monday, May 6, 1991, and expires at 7 p.m., Friday, May 17, 1991, unless sooner terminated by the Captain of the Port, Savannah, GA.

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port, Savannah.

(2) Vessel operators desiring to enter or operate within the safety zone shall contact the Federal Law Enforcement Training Center officials on scene to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given them by the presiding Federal Law Enforcement Training Center official.

(3) The Captain of the Port may be contacted by telephone via the Command Duty Officer at (912) 944-4353. Federal Law Enforcement Center vessels assisting in the enforcement of the safety zone may be contacted on VHF-FM channels 16 or 71, or vessel operators may determine the restrictions in effect for the safety zone by coming alongside a law enforcement vessel patrolling the perimeter of the safety zone.

(4) The Captain of the Port will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and restrictions imposed.

Dated: March 26, 1991.

R. E. Ford,

Commander, U.S. Coast Guard, Captain of the Port, Savannah, Georgia.

[FR Doc. 91-8158 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR 165

[COTP Savannah Regulation 91-22]

Safety Zone Regulations; Savannah River, Savannah, GA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on St. Simons Sound, Glynn County, Georgia from May 6, 1991 to May 17, 1991. The safety zone encompasses all waters of St. Simons Sound within a 50 yard radius around the west jetty at Jekyll Creek (approximate position 31 degrees 05.6 minutes N, 081 degrees 26.5 minutes W). The Captain of the Port has restricted vessel operations in this safety zone during daylight hours due to a Federal Law Enforcement Training Center Exercise. No persons or vessels will be allowed to enter or operate within this area, except as may be permitted by the Captain of the Port, Savannah, GA. Vessel operators desiring to operate within this zone are required to contact the Federal Law Enforcement Training Center officials on scene when approaching the safety zone. Vessels permitted to enter or operate within the safety zone shall comply with all directions given by Federal Law Enforcement Training Center officials.

EFFECTIVE DATES: This regulation is effective as of 6 a.m., Monday, May 6, 1991, and expires at 7 p.m., Friday, May 17, 1991, unless sooner terminated by the Captain of the Port, Savannah, GA.

FOR FURTHER INFORMATION CONTACT: LT T.F. Mann, (912) 944–4371. Normal working hours are between 0730 and 1600, Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent possible hazards to mariners.

Drafting Information

The drafters of this regulation are MSTC D. Walsh, project officer for the Captain of the Port, and LT G. Tanos, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

This regulation is effective as of 0600, Monday, May 6, 1991, and expires at 1900, on Friday, May 17, 1991, unless sooner terminated by the Captain of the Port, Savannah, GA. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

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

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (Water), Security Measures, Vessels and Waterways.

Regulation

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

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

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

2. A new section, 165.T0705, is added to read as follows:

§ 165.T0705 Safety Zone: St. Simons Sound, Glynn County, Georgia.

(a) *Location.* The following area is a safety zone: The area on St. Simons Sound within a 50 yard radius around the west jetty at Jekyll Creek (approximate position 31 degrees 05.6 minutes N., 081 degrees 26.5 minutes W).

(b) *Effective dates.* This regulation is effective as of 6 a.m., Monday, May 6, 1991, and expires at 7 p.m., Friday, May 17, 1991, unless sooner terminated by the Captain of the Port, Savannah, GA.

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port, Savannah.

(2) Vessel operators desiring to enter or operate within the safety zone shall contact the Federal Law Enforcement Training Center officials on scene to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given them by the presiding Federal Law Enforcement Training Center official.

(3) The Captain of the Port may be contacted by telephone via the Command Duty Officer at (912) 944–4353. Federal Law Enforcement Training Center vessels assisting in the enforcement of the safety zone may be contacted on VHF–FM channel 16 or 71, or vessel operators may determine the restrictions in effect for the safety zone by coming alongside a law enforcement vessel patrolling the perimeter of the safety zone.

(4) The Captain of the Port will issue a marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and restrictions imposed.

Dated: March 26, 1991.

R. E. Ford,

Commander, U.S. Coast Guard, Captain of the Port, Savannah, Georgia.

[FR Doc. 91–8159 Filed 4–5–91; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR 165

[COTP Savannah Regulation 91–18]

Safety Zone Regulations; Savannah River, Savannah, GA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on May 12, 1991 on the Savannah River. This zone consists of an area within a 50 yard radius around the fireworks barge moored near the north side of the Savannah River across from Rousakis Plaza (approximate position 32 degrees 04.55 minutes N, 081 degrees 05.27 minutes W). The Captain of the Port has restricted vessel operations in this safety zone due to a fireworks display being given by the Savannah Symphony. No persons or vessels will be allowed to enter or operate within this zone, except as may be permitted by the Captain of the Port, Savannah, GA. Vessel operators are required to contact the Captain of the Port or his representative when approaching or intending to operate within the safety zone. Vessels permitted to enter or operate within the safety zone shall comply with all directions given by the Captain of the Port or his representative.

EFFECTIVE DATES: This regulation is effective as of 8 p.m., Sunday, May 12, 1991, and expires at 11 p.m., Sunday, May 12, 1991, unless sooner terminated by the Captain of the Port, Savannah, GA.

FOR FURTHER INFORMATION CONTACT: LT T.F. Mann, (912) 944–4353. Normal working hours are between 0730 and 1600, Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent possible hazards to mariners.

Drafting Information

The drafters of this regulation are MSTC D. Walsh, project officer for the Captain of the Port, and LT G. Tanos, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

This regulation is effective as of 8 p.m., Sunday, May 12, 1991, and expires at 11 p.m., Sunday, May 12, 1991, unless sooner terminated by the Captain of the Port, Savannah, GA. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

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

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (Water), Security Measures, Vessels and Waterways.

Regulation

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

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

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

2. A new section, 165.T0704, is added to read as follows:

§ 165.T0704 Safety Zone: Savannah River, Georgia.

(a) *Location.* The following area is a safety zone: All waters within a 50 yards radius around a fireworks barge moored near the north side of the Savannah River across from Rousakis Plaza.

(b) *Effective dates.* This regulation is effective as of 8 p.m., Sunday, May 12, 1991, and expires at 11 p.m., Sunday, May 12, 1991, unless sooner terminated by the Captain of the Port, Savannah, GA.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into the zone is subject to the following requirements:

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port or a representative of the Captain of the Port.

(2) The "representative of the Captain of the Port" is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Savannah, GA, to act on his behalf. The representative of the Captain of the Port will be aboard a Coast Guard vessel.

(3) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port or his representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given them by the Captain of the Port or his representative.

(4) The Captain of the Port may be contacted by telephone via the Command Duty Officer at (912) 944-4353. Vessels assisting in the enforcement of the safety zone may be contacted on VHF-FM channels 16 or 81, or vessel operators may determine the restrictions in effect for the safety zone by coming alongside a vessel patrolling the perimeter of the safety zone.

(5) The Captain of the Port will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and restrictions imposed.

Dated: March 27, 1991.

R. E. Ford,

Commander, U.S. Coast Guard, Captain of the Port, Savannah, Georgia.

[FR Doc. 91-8160 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3918-6]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a final, one-time exclusion from the lists of hazardous wastes contained in 40 CFR part 261 for a certain solid waste generated by Tennessee Electroplating, Ripley, Tennessee. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 268, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: April 8, 1991.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW. (Room M2427), Washington, DC 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-91-TEEF-FFFFF". The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll-free at (800) 424-9346, or at (703) 920-9810. For technical information concerning this notice, contact Narendra Chaudhari, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4787.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous waste contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine: (1) That the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the waste at levels of regulatory concern.

B. History of this Rulemaking

Tennessee Electroplating petitioned the Agency to exclude from hazardous waste control certain waste that it generated. On March 6, 1986, EPA proposed to exclude specific wastes generated by eight facilities, including Tennessee Electroplating (see 51 FR 7827-7829), from the lists of hazardous waste contained at 40 CFR 261.31 and 261.32. Four of these facilities were granted final exclusions in earlier notices. One of the petitions was withdrawn, one was denied, and another was mooted. This notice addresses public comments received on the proposal and finalizes the proposed decision to grant Tennessee Electroplating's petition.

II. Disposition of Delisting Petition

A. Tennessee Electroplating, Ripley, Tennessee

1. Proposed Exclusion. Tennessee Electroplating, located in Ripley, Tennessee, petitioned the Agency to exclude its currently generated electroplating filter press sludge, listed as EPA Hazardous Waste No. F006, as well as previously generated F006 filter press sludge contained in an on-site closed surface impoundment. The listed constituents of concern for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed) (see 40 CFR 261, appendix VII). Tennessee Electroplating based its petition on the claim that the constituents of concern are not present at significant levels or, if present at significant levels, are in an essentially immobile form.

In support of its petition, Tennessee Electroplating submitted: (1) Detailed descriptions of its electroplating and wastewater treatment processes,

including schematic diagrams; (2) a listing of raw materials used in the manufacturing and treatment processes; (3) results of total constituent and EP leachate analyses of representative waste samples for the EP toxic metals, nickel, and cyanide; (4) total oil and grease analysis data on representative waste samples; (5) ground-water monitoring data for the unit in which the petitioned waste is managed.

The Agency evaluated the information and analytical data provided by Tennessee Electroplating in support of its petition and tentatively determined that the hazardous constituents found in the petitioned wastes would not pose a threat to human health and the environment. Specifically, the Agency used its vertical and horizontal spread (VHS) model to predict the potential mobility of the hazardous constituents found in the petitioned wastes. The Agency also evaluated ground-water monitoring information submitted in support of Tennessee Electroplating's petition. Based on these evaluations, the Agency tentatively determined that the constituents in Tennessee Electroplating's petitioned wastes would not leach and migrate at concentrations above the health-based levels used in delisting decision-making. See 51 FR 7827–7829, March 6, 1986 for a more detailed explanation of why EPA proposed to grant Tennessee Electroplating's petition.

2. Agency's Response to Public Comments. The Agency received comments from one commenter regarding the March 6, 1986 proposed decision to grant an exclusion for Tennessee Electroplating's petitioned wastes. The comments submitted related to the following areas: (1) The Agency's use of the extraction procedure to evaluate the potential mobility of constituents in the petitioned wastes; (2) the Agency's failure to use the maximum reported leachate concentration for chromium in its evaluation of the filter press sludge; (3) the Agency's use of the mean leachate concentration to evaluate the •petitioned impoundment sludge; (4) the Agency's use of the VHS model to evaluate the petitioned waste; (5) the Agency's failure to require ground-water monitoring data from an adequate monitoring system in its evaluation of the petitioned impoundment sludge; and (6) the Agency's failure to consider the fact that both Tennessee Electroplating and another petitioning facility dispose of their filter press sludge at the same landfill site. The Agency's responses to these comments were presented in the **Federal Register** on November 17, 1986 when the Agency (1) finalized the exclusion of Tennessee Electroplating's filter press sludge and (2) extended the comment period to enable public review of additional data submitted on October 27, 1986 for the filter press sludge and impoundment sludge (see 51 FR 41480). The Agency did not receive any public comments on the additional data submitted for Tennessee Electroplating's filter press sludge or impoundment sludge.[1]

The Agency, at this time, wishes to expand upon its response to comments received regarding the proposed decision to grant an exclusion for 6,300 tons of sludge (approximately 6,300 cubic yards) contained in Tennessee Electroplating's on-site, closed surface impoundment, specifically concerning the Agency's use of the VHS model and the lack of ground-water monitoring data. The commenter believed that the Agency applied the VHS model without determining if the assumptions of the model were valid for the waste under evaluation. For this and other reasons, the commenter believed that the Agency took a non-conservative approach to evaluating the data contained in the petition.

As stated in the original March 6, 1986 notice, the Agency chose to evaluate Tennessee Electroplating's waste using the VHS landfill model. The Agency used the VHS model because this model predicts the potential for ground-water contamination from wastes, like Tennessee Electroplating's, that are land disposed.[2] The VHS model accomplishes this in its consideration of three basic steps: (1) Generation of a leachate from the waste, (2) migration of the leachate to the underlying aquifer, and (3) migration of the contaminated ground water in the aquifer to a nearby receptor well. As described in more detail in 50 FR 7882 (February 26, 1985), 50 FR 48896 (November 27, 1985), and the RCRA public dockets for these notices, the VHS model relies on conservative, generic parameters in its evaluation of the potential impact of a specific waste on human health and the environment. As a result, the model predicts reasonable, worst-case contaminant levels in ground water; levels which are conservative, not "non-conservative". For these reasons, the Agency believes that VHS model is an appropriate, conservative, evaluation tool for Tennessee Electroplating's petitioned waste.

The commenter also believed that the Agency should have proposed to deny Tennessee Electroplating's petition because the facility did not submit ground-water data from an adequate monitoring system. The commenter believed that the Agency could not have adequately evaluated the potential health and environmental hazard of the impoundment sludge without these data.

In its original March 6, 1986 notice, the Agency proposed to exclude Tennessee Electroplating's impoundment sludge based on what was then considered to be a complete petition. This decision was based, in part, on analyses of ground-water samples collected from one monitoring well located downgradient of the petitioned unit. On August 4, 1988, the Agency was informed that Tennessee Electroplating had voluntarily expanded their existing ground-water monitoring system. The Agency subsequently reviewed information provided by Tennessee Electroplating for the expanded monitoring system and found the system to be inadequate. Specifically, wells were not place downgradient of the petitioned unit. Tennessee Electroplating installed additional wells in July of 1989 under the guidance of the Tennessee Division of Solid Waste Management. Tennessee Electroplating submitted data from this new system, approved by the State of Tennessee, to EPA on January 16, and February 26, 1990.

The Agency's evaluation of ground-water data collected from the new monitoring system indicated that concentrations of hazardous constituents in ground water were below delisting health-based levels (*i.e.*, the petitioned waste had not adversely impacted ground-water quality). On May 3, 1990, the public was notified of the availability of this additional ground-water monitoring information and the Agency's intention to consider these data in finalizing the review of Tennessee Electroplating's petition (see 55 FR 18643). The Agency did not receive any comments on these data. Thus, based on its review of information submitted in support of Tennessee Electroplating's petition, the Agency continues to believe that the filter press sludge contained in Tennessee Electroplating's on-site, closed surface impoundment is not hazardous.

The Agency is also taking this opportunity to specify that the maximum volume of sludge contained in Tennessee Electroplating's on-site,

[1] Had the Agency received comments on the filter press sludge data that substantiated a final decision other than the one published on November 17, 1986, the Agency would have published another notice to address these comments.

[2] The Agency notes that Tennessee Electroplating's surface impoundment, because it is inactive, closed and covered, meets the definition of a solid waste landfill under 40 CFR 260.10.

closed surface impoundment, noted in the proposal and to which this exclusion applies, is 6,300 cubic yards. The Agency believes including the certified maximum volume limitation in the final rule does not present any added burden on Tennessee Electroplating, but merely serves to clarify this limitation in the exclusion. Therefore, the Agency has inserted the maximum volume of 6,300 cubic yards contained in the closed surface impoundment into the final rule.

3. Final Agency Decision. For the reasons stated in the proposal, the Agency believes that the sludge contained in Tennessee Electroplating's surface impoundment are not hazardous and, as such, should be excluded from hazardous waste control. The Agency, therefore, is granting a final, one-time exclusion to Tennessee Electroplating's Ripley, Tennessee facility for its wastewater treatment sludge listed as EPA Hazardous Waste No. F006. The exclusion applies only to the 6,300 tons of sludge (approximately 6,300 cubic yards) that Tennessee Electroplating claims are contained in its on-site surface impoundment.

Although management of the waste covered by this petition is relieved from subtitle C jurisdiction, Tennessee Electroplating must either (1) continue to manage the waste on site at its present location in accordance with applicable state regulations; or (2) treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Limited Effect of Federal Exclusions

The final exclusion being granted today is being issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA, regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

IV. Effective Date

This rule is effective April 8, 1991. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this exclusion should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact, therefore, due to today's rule.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis, which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect is to reduce the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule 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, 44 U.S.C. 3501, *et seq.*) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous Waste, Recycling and Reporting and Recordkeeping Requirements.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: March 27, 1991.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of appendix IX to part 261, add the following wastestream in alphabetical order by "Facility" to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* * *	* * *	* * *
Tennessee Electroplating.	Ripley, TN.....	Wastewater treatment sludge (EPA Hazardous Waste No. F006) generated from electroplating operations and contained in an on-site surface impoundment (maximum volume of 6,300 cubic yards). This is a one-time exclusion. This exclusion was published on April 8, 1991.
* * *	* * *	* * *

[FR Doc. 91–8157 Filed 4–5–91; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 271

[FRL-3918-8]

Ohio: Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Ohio has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act of 1976 as amended (hereinafter "RCRA" or the "Act"). The Environmental Protection Agency (EPA) has reviewed Ohio's applications and has reached a decision, subject to public review and comment, that Ohio's hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to Ohio to operate its expanded program, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA").

DATES: Final authorization for Ohio's program revisions shall be effective June 7, 1991, unless EPA publishes a prior **Federal Register** (FR) action withdrawing this immediate final rule. All comments on Ohio's program revision must be received by 4:30 p.m., central time on May 8, 1991. If an adverse comment is received, EPA will publish either (1) a withdrawal of this immediate final rule or (2) a notice containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

ADDRESSES: Copies of Ohio's final authorization applications are available for inspection and copying at the following addresses from 9 a.m. to 4 p.m.; Ohio Environmental Protection Agency, P.O. Box 1049, 1800 WaterMark Drive, Columbus, Ohio 43266-0149, contact: Ms. Kit Arthur, phone (614) 644-2941; U.S. EPA Headquarters Library, PM 211A, 401 M Street SW., Washington, DC, 20460, phone (202) 382-5922; U.S. EPA, Region V, 230 S. Dearborn, Chicago, Illinois 60604, contact: Ms. Virginia Kroncke, phone (312) 353-4716. Written comments should be sent to Ms. Virginia Kroncke, Ohio Regulatory Specialist, U.S. EPA, Office of RCRA, 5HR-JCK-13, 230 S. Dearborn, Chicago, Illinois 60604, phone (312) 353-4716.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Kroncke, Ohio Regulatory Specialist, U.S. Environmental Protection Agency, Region V, Waste Management Division, Office of RCRA, Program Management Branch, Regulatory Development Section, 5HR-JCK-13, 230 South Dearborn, Chicago, Illinois 60604, phone (312) 353-4716 [FTS 8-353-4716].

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. For further explanation see section C of this notice.

In accordance with 40 CFR 271.21(a), revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessary because of changes to EPA's regulations in 40 CFR parts 124, 260-268 and 270.

B. Ohio

Ohio initially received final authorization for its base RCRA program effective on June 30, 1989 (54 FR 27173, June 28, 1989). On November 8, and December 11, 1990, Ohio completed additional program revision applications. These revision applications addressed rules found in non-HSWA Clusters IV & V, and HSWA Clusters I & II. EPA has reviewed these applications and has made an immediate final decision, subject to public review and comment, that Ohio's hazardous waste program revisions are equivalent to the Federal program revisions listed below and satisfy all the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization to Ohio for its additional program revisions. Ohio will not, however, be authorized for any corrective action rules by these program revisions.

On June 7, 1991 (unless EPA publishes a prior FR action withdrawing this immediate final rule), Ohio will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following provisions of the Federal program:

Federal requirement	Analogous state authority
*Dioxin Waste Listing and Management Standards, 50 FR 1978-2006, January 14, 1985.	Ohio Administrative Code (OAC), Chapter 3745, Rules 50-44(A)(7), 50-44(C)(2)(g), (3)(j), (4)(k), (5)(l), (7)(j), effective 8/3/90; Rules 51-31, Appendix to rule 51-31, 51-33(F), Appendix to rule 54-93, 55-75 (C) and (D), effective 6/29/90; Rule 65-01, effective 4/1/90; Rules 51-05(E) (1) and (2), 51-07(B) (1) and (3), 51-20, 51-30(D), Appendix to rule 51-30, 54-73(B)(3), 57-14(B), 57-43(A), 65-13(B)(6), 65-73(B)(3), 68-14(C), 68-83 (A) and (B), effective 12/30/89; Rules 56-33 (A) and (B), 56-60 (A) and (B), 56-83 (A) and (B), 57-18 (A) and (B), and 68-52 (A) and (B), effective 1/30/86;
Paint Filter Test, 50 FR 18370-18375, April 30, 1985	Rule 54-13(B)(6), effective 4/1/90; Rules 54-73(B)(3), 57-14(B), 65-13(B)(6), 65-73(B)(3), 68-14(C), effective 12/30/89;
*Small Quantity Generators, 50 FR 28702-28755, July 15, 1985	Rule 51-05 (B), (F), (G), (I), and (J), effective 12/30/89;
*Household Waste, 50 FR 28702, July 15, 1985	Rule 51-04(B)(1), effective 6/29/90;
*Waste Minimization, 50 FR 28702, July 15, 1985	Rules 50-40(C), 50-58(J)(2), 52-41(A) (6)-(8), 54-18(C), 54-70(B), 54-73(B)(9), 65-18, effective 12/30/89;
*Liquids in Landfills, 50 FR 28702, July 15, 1985	Rules 57-14, 68-14 (A) and (F), effective 12/30/89;
*Dust Supression, 50 FR 28702, July 15, 1985	Rule 58-33, effective 12/30/89;
*Double Liners, 50 FR 28702, July 15, 1985	Rules 56-21 (A) and (C)-(E), 57-03, 67-21 (A)-(E), 67-54, 68-011 (A)-(E), effective 12/30/89;
*Ground-Water Monitoring, 50 FR 28702, July 15, 1985	Rules 54-90(B), 56-26(B)(3), 56-28 (B)(2) and (D), 56-52, 56-53, 56-54(B)(2), 57-04, 57-05(B)(2), 57-10 (B)(2) and (C), 65-22, effective 12/30/89;
*Cement Kilns, 50 FR 28702, July 15, 1985	Rules 51-06(A)(2), 51-33, effective 6/29/90; Rule 58-42(C), effective 5/28/87;
*Pre-construction Ban, 50 FR 28702, July 15, 1985	Rule 50-40(B)(1), effective 12/30/89;

Federal requirement	Analogous state authority
*Omnibus Provision, 50 FR 28702, July 15, 1985	Rule 50-51(K)(5), effective 4/1/90;
*Interim Status, 50 FR 28702, July 15, 1985	Rules 50-40 (C) and (D), 50-41 (A) and (C)(1)(b), 50-58(J)(2), effective 12/30/89;
*Exposure Information, 50 FR 28702, July 15, 1985	Rules 50-40(G), 50-41(C)(1)(b), effective 12/30/89;
*Listing of TDI, DNT, and TDA Wastes, 50 FR 42936-42943, October 23, 1985	Rules 51-33(F), 54-93, effective 6/29/90;
	Rules 51-20, 51-30, 51-32, effective 12/30/89;
*Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces, 50 FR 49164-49212, November 29, 1985 (as amended on November 19, 1986, at 51 FR 41900-41904, and April 13, 1987, at 52 FR 11819-11822).	Rules 51-03(C)(2)(b)(iii), 51-05(B), 51-06 (A) (2)(c), (3) (c) and (g)-(i), 58-45 (A)-(E) and (G), 58-46, 58-50 (A)-(E), 58-51 (A) and (B), effective 12/30/89;
	Rules 58-53, 58-54, effective 12/8/88;
	Rules 57-40(A)(2), 58-43 (A)-(C), 58-44, 58-52, 68-40, effective 5/28/87;
*Listing of Spent Solvents, 50 FR 53315-20, December 31, 1985	Rule 51-31, effective 6/29/90;
*Listing of EDB Wastes, 51 FR 5330, February 13, 1986	Rules 51-20, 51-30, 51-32, effective 12/30/89;
*Listing of Four Spent Solvents, 51 FR 6541-6542, February 25, 1986	Rules 51-31, 54-93, effective 6/29/90;
	Appendix to rules 51-20, 51-30, effective 12/30/89;
*Generators of 100 to 1000kg Hazardous Waste, 51 FR 10174-10176, March 24, 1986.	Rule 50-10(A)(92), effective 8/3/90;
	Rule 51-33(F), effective 6/29/90;
	Rule 52-34 (A) and (D)-(F), effective 4/1/90;
	Rules 50-40(D)(3), 50-45(C)(1), 51-01(A), 51-05, 52-20(F), 52-44, 53-20(H), effective 12/30/89;
*Codification Rule, Technical Correction, 51 FR 19176, May 28, 1986	Rule 68-14(C), effective 12/30/89;
*Standards for Hazardous Waste Storage and Treatment Tank Systems, 51 FR 25470-25486, July 14, 1986.	Rules 50-10(A) (2), (6), (14), (19), (31), (49), (53), (59), (67), (69), (95), (98), (107), (108), and (119), 50-44(A) (5) and (13), 50-44(C)(2), effective 8/3/90;
	Rules 51-04(A)(8)m 54-15(B)(4), 55-90, 66-90, 66-93, effective 6/29/90;
	Rules 52-34 (A)(1), (D) (2) and (3), 65-13(B)(4), effective 4/1/90;
	Rules 54-73(B)(6), 65-13(B)(6), 65-73(B) (3) and (6), 66-95, 66-992, effective 12/30/89;
	Rules 55-10(B)(3), 55-40(B)(3), 55-91, 55-92, 55-93, 55-94, 55-95, 55-96, 55-97, 55-98, 55-99, 66-10(B)(3), 66-40(B), 66-91, 66-92, 66-94, 66-96, 66-97, 66-98, 66-99, 66-991, effective 12/8/88;
*Biennial Report Correction, 51 FR 28556, August 8, 1986	Rules 54-75 (H)-(J), 65-75 (H)-(J), effective 12/30/89;
*Exports of Hazardous Waste, 51 FR 28664-28686, August 8, 1986	Rules 51-05(F)(3) (a) and (b), 51-05(G)(3) (a) and (b), 51-06(A)(3)(a), 52-41(A), 52-50, 52-51, 52-52, 52-53(A), 52-54, 52-55, 52-56, 52-57, 52-60, 52-70, 53-20 (A), (C), (E)(2), (F)(2), and (G)(3), effective 12/30/89;
*Listing of EBDC, 51 FR 37725-37729, October 24, 1986	Rule 51-30, effective 12/30/89;
	Rule 51-32, effective 8/29/85;
*Land Disposal Restrictions, 51 FR 40572-40654, November 7, 1986 (as amended on June 4, 1987, 52 FR 21010).	Rules 50-10, 50-44(A)(21), effective 8/3/90;
	Rules 51-04 (C) and (D)(1), 59-41, 59-42 (A) and (B), 59-43, effective 6/29/90;
	Rules 50-51(K)(5), 52-11(F), 54-01(H), 54-13 (A)(1), (B) (6) and (7), 65-01(E), effective 4/1/90;
	Rules 51-04(A), 51-05 (B), (C), (E), (F)(2), and (G)(2), 51-06 (A)(3) and (C)(1), 51-07(A), 51-20, 53-12, 54-73(B) (3) and (10)-(14), 59-01 (A)-(C), 59-02, 59-04, 59-07, 59-30, 50-31, 59-40, 59-41, 59-44, 59-50, 65-13 (A)(1), (B) (6) and (7), 65-73(B) (3) and (8)-(12), effective 12/30/89;
	Rule 49-031(A), effective 2/23/89;
	Rule 51-30(B), effective 4/15/81;
	Rule 50-01, effective 12/2/81;
Amendments to Part B Information Requirements for Disposal Facilities, 52 FR 23447-23450, June 22, 1987 (as amended on September 9, 1987, 52 FR 33936).	Rule 50-44 (B)(7) and (B)(8)(e), effective 8/3/90;
*California List Waste Restrictions, 52 FR 25759-25792, July 8, 1987 as amended on October 27, 1987, 52 FR 41295-41296.	Rule 59-42(A)(2), effective 6/29/90;
	Rules 50-51(D)(3), 54-13(B)(7)(c), effective 4/1/90;
	Rules 52-70, 59-01(C)(5), 59-02(A), 59-03, 59-04, 59-07, 59-30(A)(4), 59-32, 59-40, 59-50 (A), (E), and (F), 65-13(B)(7)(c), effective 12/30/89;
	Rule 50-11(A), effective 12/8/88;
List of Hazardous Constituents for Ground-Water Monitoring, 52 FR 25942-25953, July 9, 1987.	Rule 50-44(B)(4)(b), effective 8/3/90;
	Rules 54-98, 54-99(F), effective 6/29/90;
Identification and Listing of Hazardous Waste, 52 FR 26012, July 10, 1987	Rule 51-33(C), effective 6/29/90;
Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee, 52 FR 44314-44321, November 18, 1987.	Rules 50-10(A) (55) and (65), 50-44 (A) (5), (13), and (C)(9), effective 8/3/90;
	Rules 54-15(B)(4), 55-14, 55-47(B), 55-47(G) (2) and (3), 55-51(H)(2), 66-47(G) (2) and (3), effective 6/29/90;
	Rules 54-10(B), 54-18(B)(1)(b), 54-73(B)(6), 54-90(D), 55-11(C), 55-12(A)(2), 55-17(A)(1), 55-18(B), 55-42(A), 55-44(A), 57-90, 57-91, 57-92, 57-93, effective 12/30/89;
Technical Corrections; Identification and Listing of Hazardous Waste, 53 FR 13382-13393, April 22, 1988.	Rules 51-33 (E) and (F), 54-93, effective 6/29/90;
*Farmer Exemptions; Technical Corrections, 53 FR 27164-27165, July 19, 1988	Rules 52-10 (B)(1) and (D), 54-01(G)(4), 65-01(C)(8), effective 4/1/90;
	Rules 50-45(C)(2), 59-01(C)(5), effective 12/20/89;
*Land Disposal Restrictions for First Third Scheduled Wastes, 53 FR 31138-31222, August 17, 1988.	Rules 59-41(A), 59-42(A)(2), 59-43, effective 6/29/90;
	Rules 54-13(B)(7)(c), effective 4/1/90;
	Rules 54-73(B) (10)-(16), 58-30(B), 59-01 (C) (3)-(5) and (D), 59-04(A)(2), 59-07, 59-08, 59-30 (B) and (C), 59-31(A), 59-32 (D)-(G), 59-33, 59-40 (A) and (C), 59-50(D), 65-13(B)(7)(c), 65-73(B) (8)-(14), effective 12/30/89;
*Hazardous Waste Miscellaneous Units, 52 FR 46946-46965, December 10, 1987.	Rules 50-10(A) (55) and (65), 50-44(A) (5) and (13), 50-44(C)(9), effective 8/3/90;
	Rules 55-14, 54-15(B)(4), 55-47(B), effective 6/29/90;
	Rules 54-10(B), 54-18(B)(1)(b), 54-73(B)(6), 54-90(D), 55-11(C), 55-12(A)(2), 55-17(A)(1), 55-18(B) (1) and (2), 55-42(A), 55-44(A), 57-90, 57-91, 57-92, 57-93, effective 12/30/89;
*Identification and Listing of Hazardous Waste Treatability Studies Sample Exemption, 53 FR 27290-27302, July 19, 1988.	Rule 50-10(A)(114), effective 8/3/90;
	Rule 51-04 (E) and (F), effective 6/29/90;

Federal requirement	Analogous state authority
*Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079-34087, September 2, 1988.	Rule 50-10(A) (27), (28), (128) and (129), effective 8/3/90; Rules 55-14, 55-90, 66-90, 66-93 (F)(3) and (G)(3)(c), effective 6/29/90; Rule 66-992(c)(3), effective 12/30/89; Rule 66-14, effective 12/23/89; Rules 55-93(F)(3), 55-96, 66-10(B)(2), 66-96, effective 12/8/88;
*Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification, 53 FR 35412-35421, September 13, 1988.	Rule 51-04(B)(7), effective 6/29/90; Rules 51-30, 51-32, effective 12/30/89;
*Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities, 53 FR 39720-39731, October 11, 1988.	Rule 54-97 (A) and (G)-(J), effective 7/11/90; Rules 51-91(A), 54-92, 54-98 (C), (D), and (F)-(K), 54-99 (C), (D), and (F)-(L), effective 6/29/90;
*Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes, 53 FR 43878-43881, October 31, 1988.	Rules 51-11, 51-33(F), effective 6/29/90;
*Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Waste, 53 FR 43881-43884, October 31, 1988.	Rules 51-11, 51-33(E), effective 6/29/90;
*Amendments to Requirements for Hazardous Waste Incinerator Permits, 54 FR 4286, January 30, 1989.	Rule 50-62(D), effective 4/1/90;
*Land Disposal Restrictions for the Second Third Scheduled Wastes, 54 FR 26594, June 23, 1989.	Rules 59-34, 59-41, 59-42(A) (3) and (4), 59-43, effective 6/29/90;
*Identification and Listing of Hazardous Waste; Reportable Quantity Adjustment, 55 FR 5340, February 14, 1990.	And, Rule 51-31, effective 6/29/90.

*Indicates HSWA Provision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for the other provisions on June 30, 1989, the effective date of Ohio's final authorization for the RCRA base program.

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

C. Effect of HSWA on Ohio's Authorization

1. General

Prior to the Hazardous and Solid Waste Amendments to RCRA, a State with final authorization administered its hazardous waste program instead of, or entirely in lieu of, the Federal program. Except for enforcement provisions not applicable here, EPA no longer directly applied the Federal requirements in the authorized State and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent, Federal requirements were promulgated or enacted, the State was obligated to obtain equivalent authority within specified time frames. New Federal requirements usually did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under the amended Section 3006(g) of RCRA, 42 U.S.C. 6926(g), new HSWA requirements and prohibitions take effect in authorized States at the same time they take effect in non-authorized States. EPA carries out those requirements and prohibitions directly in authorized and non-authorized States, including the issuance of full or partial HSWA permits, until EPA grants the State authorization to do so. States must still, at one point, adopt HSWA-related provisions as State law to retain final authorization. In the interim, the HSWA provisions apply in authorized States.

As a result of the HSWA, there is a dual State/Federal regulatory program in Ohio. To the extent HSWA does not affect the authorized State program, the State program will operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA will administer and enforce those HSWA requirements in Ohio until the State is authorized for them.

Once EPA authorizes Ohio to carry out a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision or prohibition. Until that time, the State may assist EPA's implementation of the HSWA under a Cooperative Agreement.

Today's rulemaking includes authorization of Ohio's program for several requirements implementing the HSWA. This rulemaking does not include any HSWA corrective action rules. Those requirements implementing the HSWA are denoted by an asterisk in the table found in the "Ohio" section of this notice. Any effective State requirement that is more stringent or broader in scope than a Federal HSWA provision will continue to remain in effect; thus, regulated handlers must comply with any more stringent State requirements.

EPA published a FR notice that explains in detail the HSWA and its affect on authorized States (50 FR 28702-28755, July 15, 1985).

2. Land Disposal Prohibitions

With this decision, EPA intends to authorize Ohio to impose certain land disposal prohibitions. The regulations implementing the land disposal prohibitions are found in 40 CFR part 268. Under sections 5, 6, 42(b), and 44 of part 268, EPA has authority to consider petitions for case-by-case extensions to prohibition effective dates, exemptions to prohibitions based upon a showing of no potential for waste migration, alternate treatment methods, and variances from treatment standards, respectively. Consideration of the sections 5, 42(b) and 44 petitions is permanently reserved to EPA because consideration of those petitions requires a national perspective. In the future, EPA may authorize States to consider the section 6 petitions. However, EPA is currently requiring that these petitions be handled at EPA Headquarters. It should be noted that Ohio has its own procedures for considering petitions for exemptions to prohibitions based upon a showing of no potential for waste migration. Nothing in RCRA prohibits a State from adopting requirements that parallel Federal requirements. Therefore, petitioners seeking a section 6 exemption must be granted approval by both EPA and the State.

On August 17, 1990, EPA promulgated the most recent phase of the regulatory framework implementing the land

disposal prohibitions. EPA promulgated earlier phases on November 7, 1986, June 4, July 8, and October 10, 1987, August 17, 1988, February 27, May 2, June 23, and September 6, 1989, and June 1, June 13, and August 17, 1990. Ohio's rulemaking process follows the EPA rulemaking process. An unavoidable consequence is that Ohio's current land disposal prohibitions program is not as comprehensive as the Federal program. Since each new phase of the land disposal prohibitions regulations has included modifications to earlier phases and, in most instances, those modifications have made the regulatory framework more stringent, certain Ohio land disposal requirements may be superceded by Federal land disposal requirements.

In this action, EPA intends to authorize Ohio only for the November 7, 1986, June 4, 1987, July 8, 1987, August 17, 1988, and June 23, 1989, phases of land disposal prohibition regulations. However, the balance of the Federal regulations are, because they are promulgated pursuant to HSWA, effective in Ohio and all other States and are directly implemented by EPA. Regulated handlers must comply with any requirements of the retained Federal land disposal prohibitions program that may be more stringent than the analogous requirements of the Ohio program. Conversely, because compliance with RCRA does not exempt regulated handlers from compliance with State law, such handlers must also meet any requirements of the Ohio program that may be more stringent than the analogous requirements of the Federal program. As a consequence, regulated handlers facing an apparent conflict between State and Federal land disposal prohibitions must always comply with the more stringent of the two requirements.

D. Decision

I conclude that Ohio's program revision application meets all the statutory and regulatory requirements established by RCRA and its amendments. Accordingly, EPA grants Ohio final authorization to operate its hazardous waste program as revised. Ohio now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program and its amendments. This responsibility is subject to the limitations of its program revision applications and previously approved authorities. Ohio also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under section 3008, 3013, and 7003 of RCRA.

E. Codification

EPA codifies authorized State programs in part 272 of 40 CFR. The purpose of codification is to provide notice to the public of the scope of the authorized program in each State. Codification of the Ohio program will be completed at a later date.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Ohio's program thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 Part 271

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

Authority: This notice is issued under the authority of sections 2002(a) 3006, and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926 and 6974(b).

Dated: March 29, 1991.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 91-8156 Filed 4-5-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6841

[CO-930-4214-10; COC-016735, COC-030420, COC-28281]

Revocation of Secretarial Order Dated October 5, 1907; Partial Revocation of Public Land Order No. 1494, Dated September 9, 1957, and Public Land Order No. 2314, Dated April 4, 1961; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order in its entirety and partially revokes two public land orders insofar as they affect approximately 110.10 acres of National Forest System land withdrawn for Forest Service campgrounds and administrative sites. These sites are no longer needed and have been identified as suitable for exchange. This action opens the land to Forest Service management. The land continues to be closed to operations under the mining laws by a Forest Service exchange proposal, but remains open to mineral leasing.

EFFECTIVE DATE: May 8, 1991.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated October 5, 1907, Public Land Order No. 1494, dated September 9, 1957, and Public Land Order No. 2314, dated April 4, 1961, are hereby revoked insofar as they affect the following described land:

San Juan National Forest, New Mexico Principal Meridian

T. 39 N., R. 9 W.,

Sec. 24, lot 2 (previously described as SE¼SW¼ excepting Mineral Survey 20762) and lot 3 (previously described as SW¼SE¼).

Sec. 25, W½E½ of lot 3 and W½ of lot 3 (previously described as W½E½N E¼NW¼, and W½NE¼NW¼), and SE¼ of lot 4 (previously described as SE¼NW¼NW¼).

The area described contains approximately 110.10 acres of National Forest System land in La Plata County.

2. At 9 a.m. on May 8, 1991, the land described in paragraph 1 shall be

opened to such forms of disposition as may by law be made of National Forest System lands, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: March 29, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-8140 Filed 4-5-91; 8:45 am]

BILLING CODE 4310-JB-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 580, 581, and 583

[Docket No. 91-1]

Bonding of Non-Vessel-Operating Common Carriers

AGENCY: Federal Maritime Commission.

ACTION: Clarification of interim rule and partial stay.

SUMMARY: On January 15, 1991, the Federal Maritime Commission published an Interim Rule implementing the Non-Vessel-Operating Common Carrier Amendments of 1990. The effective date of this Interim Rule has been subsequently deferred until April 15, 1991. When the Interim Rule was originally published, the Commission provided an opportunity for interested parties to file emergency comments on aspects of the Rule they believed should be addressed immediately. Several emergency comments were subsequently submitted. Although none of these comments necessitates immediate amendment of the Interim Rule, one provision will be stayed until a final rule is adopted. In addition, this Notice will clarify certain other aspects of the Rule.

EFFECTIVE DATE: This clarification and partial stay is effective April 15, 1991.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secreary, Federal Maritime Commission, 1100 L Street NW., Suite 11101, Washington, DC 20573 (202) 523-5725.

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW., Suite 12225, Washington, DC 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: On January 15, 1991, (56 FR 1493) the Federal Maritime Commission ("Commission" or "FMC") published an Inerim Rule to implement the Non-Vessel-Operating Common Carrier Amendments of 1990 ("1990 Amendments"),[1] which modified the Shipping Act of 1984 ("1984 Act").[2] This Interim Rule was to take effect on February 14, 1991, the effective date of the 1990 Amendments, and remain in effect until such time as final rules are adopted. However, in response to a Petition for Exemption filed by a group of forwarder associations and replies thereto, the Commission granted a 60-day temporary exemption from all requirements of the 1990 Amendments, and deferred the effective date of the Interim Rule from February 14, 1991 to April 15, 1991.

The Supplementary Information section of the Interim Rule stated that persons who had serious problems with the Rule, which they believed should be addressed immediately, could bring their concerns to the attention of the Commission in writing. The Commission initially received 17 emergency comments on the Interim Rule. In addition, during the course of replying to the Petition for Exemption, several parties raised additional comments in the nature of emergency comments. Subsequent to our Order granting a temporary exemption, we received several additional emergency comments. This Order addresses the more serious concerns raised by the parties in such comments. However, to the extent an emergency comment simply requests additional time to comply with statutory and regulatory requirements, it has been resolved by the Commission's Order granting a temporary exemption.

Emergency Comments

Streamline Shippers Association, Inc. ("Streamline") requests certain modifications to the Interim Rule,[3] particularly the self-certification and services contract provisions. Sreamline suggests that § 581.11 of the Interim Rule could be interpreted as requiring shippers' associations to disclose their membership to ocean common carriers and conferences prior to tendering freight.[4] Streamline then raises the specter of ocean carriers using this knowledge to "back-solicit" the underlying members of the association.

Streamline also contends that the Interim Rule limits a shippers' association's ability to enter into service contracts by restricting use of the service contract to only those shippers who were members when the contract was signed. Streamline believes that any restriction on new members' use of a shippers' association service contract will adversely affect its ability to attract new members. Streamline also suggests that any "contract lock-in" may be contrary to Department of Justice ("DOJ") "guidelines" for shippers' associatios that purportedly state that members of shippers' associations must be free to use the association's services on a non-discriminatory basis. Streamline therefore concludes that the inclusion of shippers' associations in the certification procedures under the Interim Rule is contrary to the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, the 1984 Act, and the 1990 Amendments.

As an alternative to the Interim Rule, Streamline proposes that § 581.11(a) be amended so that shippers' association entering into a service contract certify only as to its status (*i.e.*, shippers' association), but that at time of shipment it certify whether the member using the service contract is a non-vessel-operating common carrier ("NVOCC").[5] If the member is an

[1] Section 710 of Public Law No. 101-595.

[2] 46 U.S.C. app. 1701-1721.

[3] The American Institute for Shippers' Assocaitions, Inc. concurs in and supports Streamline's comments.

[4] Section 581.11 provides: § 581.11 Certificate of shipper status.

(a) The shipper contract party shall certify on the signature page of the service contract its shipper status, *e.g.*, owner of the cargo, shippers' association, non-vessel-operating common carrier, or specified other designation, and the status of every affiliate of such contract party or member of a shippers' association entitled to receive service under the contract. The certificaiton shall be signed by the contract party.

(b) If the certification completed by the contract party under paragraph (a) of this section identifies the contract party or an affiliate or member of a shippers' association as a non-vessel-operating common carrier, the ocean common carrier or conference shall obtain documentation that such non-vessel-operating common carrier has a tariff and a bond as required under sections 8 and 23 of the Act before signing the service contract. A copy of the tariff rule published by the non-vessel-operating common carrier and in effect under § 580.5(d)(24) of this chapter may be accepted by the ocean common carrier as documenting the NVOCC's compliance with the tariff and bonding requirements of the Act.

(c) An ocean common carrier or conference executing a service contract shall be deemed to have complied with section 10(b)(15) of the Act upon meeting the requirements of paragraphs (a) and (b) of this section, unless the ocean common carrier or conference had reason to know such certification or documentation of non-vessel-operating common carrier tariff and bonding was false.

[5] Streamline advises that it is a full service shippers' association and as such tenders cargo to an ocean carrier in its own name. Rate negotiator shippers' associations, on the other hand, are said to merely negotiate a favorable service contract for their members with the members tendering cargo on their own and simply referencing the service contract.

NVOCC, the shippers' association would then be required to comply with § 581.11(b), *i.e.*, indicate compliance by the NVOCC member with the NVOCC requirements.

Streamline also raises a second issue that it contends needs immediate clarification. Streamline interprets § 583.3(a)[6] of the Interim Rule as imposing liability on any entity, including shippers' associations, if it obtains transportation on behalf of another entity later determined to be an NVOCC not in compliance with the 1990 Amendments. This, it argues, is contrary to the 1990 Amendments which impose liability only upon ocean common carriers that knowingly and willfully deal with unbonded or untariffed NVOCCs. Streamline explains that its concern arises from the fact that it deals with numerous foreign intermediaries who may or may not be NVOCCs. Streamline submits that any such liability should not be imposed until after full consideration of all the comments filed in the rulemaking proceeding. Streamline therefore suggests that § 583.3(a) of the Interim Rule be modified to read as follows:

> Except as provided in paragraph (c) of this section, no person shall provide transportation as a non-vessel-operating common carrier unless a surety bond covering such NVOCC has been furnished to the Commission.

The Trans-Pacific Freight Conference of Japan and the Japan-Atlantic and Gulf Freight Conference ("Japan Conferences") request that the Commission postpone the effective date of § § 580.5(d), 581.3(e), 581.4(a)(3), and 581.11 until final rules are adopted.[7] They believe that these provisions are not necessary to carry out the 1990 Amendments and, moreover, are contrary to Congressional intent. They contend that Congress provided the Commission with specific guidances as to how it could minimize the burden on ocean carriers—enforcement by NVOCC self-certification or by a Commission list of qualified NVOCCs. The Japan Conferences do not believe that ocean carriers were expected to affirmatively enforce the 1990 Amendments. They contend, however, that the Interim Rule establishes an intrusive system of enforcement whereby carriers are required to interrogate their customers and obtain documentation from NVOCCs to substantiate their compliance.

Eight parties[8] filed emergency comments regarding the NVOCC bonding requirements. Six of these commenters are NVOCCs, and two are involved in the surety business. The NVOCCs generally cite various difficulties in obtaining the necessary collateral and meeting the required premium levels. Two of these NVOCCs request that the Commission consider reducing the $50,000 bond level, making it more proportionate to the actual revenues earned by NVOCCs. One NVOCC asks the Commission to reconsider the actual implementation of the bond requirement.

Five parties filed emergency comments requesting other action by the Commission regarding the 1990 Amendments and the Interim Rule. These range from the Korea International Freight Forwarders Association, which asks the Commission to repeal the 1990 Amendments as contrary to free trade and causing severe adverse impact on the industry, to Alaska Coast Transport, Inc. ("Alaska Coast"),[9] which refers to allegedly unscrupulous activities of military household goods carriers and asks the Commission to broaden its regulations to include them.

As indicated above, several of the parties replying to the Petition for Temporary Exemption also independently raised issues more in the nature of emergency comments. The more relevant and significant of these comments are described below.

The National Customs Brokers and Forwarders Association of America, Inc. ("NCBFAA") suggests that the Interim Rule could benefit from greater specificity. In a co-loading situation between NVOCCs, NCBFAA believes that the Commission should clarify that only the tariff page of the master co-loader must be submitted to a vessel operator and not those of subordinate, NVOCC co-loaders. NCBFAA also urges the Commission to specify that common law limitations of liability will apply to resident agents required under the 1990 Amendments. NCBFAA further suggests that the Commission establish a standard practice for a vessel operator's scrutiny of an NVOCC's compliance with the 1990 Amendments, including standards with regard to the frequency of inquiry.

The Pacific Coast Council of Customs Brokers and Freight Forwarders Association, Inc. ("PCC") advances many of the same suggestions as NCBFAA. In addition, PCC contends that identification of the shipper's status in the Shipper Identification Box on a bill of lading, as required by § 580.5(d)(25)(i) of the Interim Rule, could create problems with other transactions related to the transfer of merchandise. PCC also suggests that the Commission permit entities who file ocean freight forwarder bonds at the FMC to combine the face amount of those bonds with those under the NVOCC requirement, to have a single bond.

The Transpacific Westbound Rate Agreement ("TWRA") offers suggested modifications to the Interim Rule that it believes will ease the ocean carriers' burden of complying with the 1990 Amendments. First, TWRA proposes that the requirement for ascertainment of shipper status and statement thereof on a carrier's bill of lading should be reduced to a requirement to ascertain and state "NVOCC" and "Non-NVOCC." Any other status a shipper might have is said to be irrelevant to carrier compliance with the statute and, moreover, difficult to determine. TWRA further contends that it is unnecessary to use hundreds of thousands of bills of lading as a place for a separate republication of each shipper's status and questions whether such a requirement serves any purpose. If a shipper's status declaration is really important, TRWA submits that it would be sufficient for a carrier to simply maintain a file thereof and furnish it upon request to the Commission. TWRA believes that persons who do not admit to their NVOCC status by filing tariffs and bonds are not going to admit such status in any declaration to a carrier. It is therefore suggested that the Commission allow carriers to maintain a register of shipper status declarations, periodically updated.

TWRA also suggests two allegedly "better and cheaper" alternatives to having shipper status declarations on a carrier's bill of lading and requiring carriers to collect copies of NVOCC tariff rules: (1) A Commission publication on a monthly or quarterly basis listing by trade all NVOCCs filing

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[6] Section 583.3(a) provides:

§ 583.3 Proof of financial responsibility, when required.

(a) Except as provided in paragraph (c) of this section, no person shall provide transportation as a non-vessel-operating common carrier or obtain transportation for the account of such NVOCC unless the surety bond covering such NVOCC has been furnished to the Commission.

[7] These provisions contain, among other things, certain requirements that apply to ocean common carriers.

[8] The following NVOCCs submitted emergency comments tied specifically to the bond requirement: Sextant Overseas Shipping Corporation; Ocean Links International USA, Inc.; Orion Marine Corporation; JLK International; BWI Transworld IL, Inc.; and Link Lines, Inc. The Surety Association of America and North American Marine Managers, Inc. ("North American") (an agent/broker for surety companies), also filed comments regarding bonding.

[9] Alaska Coast refers to itself as an agent for household goods forwarders engaged in transporting used military household goods.

tariffs and bonds that are in compliance with the law and a list of non-complying NVOCCs; or (2) permitting commercial services (or conferences or other associations) to maintain registers, by trade, of all tariffed and bonded NVOCCs, and allowing carriers to rely thereon.

Wilhelmsen Lines A/S ("Wilhelmsen") contends that the Interim Rule will impose substantial economic and administrative hardships on ocean common carriers. It claims that carriers may need to amend their bills of lading to accommodate the shipper status annotation and will have to question all their shipper customers in order to make such annotations. Wilhelmsen suggests that the shipper, not the ocean carrier, should be responsible for stating whether or not a shipment is being tendered by an NVOCC; NVOCCs would have the additional responsibility of certifying whether they are tariffed and bonded and could allegedly do so by using a stamp on the face of the bill of lading. A group of 11 conferences [10] and V.A.G. Trasnsport GmbH & Co. OHG filed similar comments.

The Inter-American Freight Conference, Bermuda Container Line, Ltd., Great White Fleet, Ltd., and Transportacion Maritima Mexicano, S.A. de C.V. filed a joint comment contending that the ocean carriers' responsibilities under the Interim Rule are not adequately defined. They note that carriers are required to ascertain the identity and status of a shipper, but claim that there is no indication of the level of the inquiry or what "other designations" of shipper status would be acceptable. These commenters also raise concerns about whether ocean carriers would be required to ascertain the status, and tariff and bonding information, from NVOCC signatories to existing service contracts. Lastly, they contend that the contents of Rule No. 25, to be added to ocean carrier tariffs, are unclear.

International Container Transport, Inc. ("ICT") is concerned that the language of the Interim Rule is permissive enough to allow carriers to insist on seeing more than that required to be contained in an NVOCC's tariff Rule 24. It suggests that carriers may wish to see the "actual tariff item" filed in the NVOCC's tariff. This, coupled with the identity of the actual shipper as gleaned from the export declaration, would allegedly give ocean carriers the ability to solicit the underlying shipper's business and thereby eliminate the NVOCC. ICT thus suggests that carriers be permitted to see only Rule 24 as evidence of NVOCC conformity with the Interim Rule.

Subsequent to the Commission's Order granting a temporary exemption, TWRA, a group of eleven conferences,[11] the Japan Conferences, American President Lines, Ltd. ("APL"), Inter-American Freight Conference ("IAFC") and, collectively, Bermuda Container Line, Ltd., Great White Fleet, Ltd. and Transportacion Maritima Mexicana, S.A. de C.V.,[12] filed separate, additional emergency comments on the Interim Rule. TWRA's comments in many respects repeat its prior comments. However, TWRA further suggests that the Interim Rule be ameded so that a carrier would be deemed in compliance with the 1990 Amendments if:

1. It obtained a written representation that the shipper was not an NVOCC; or

2. An NVOCC shipper furnished the carrier a copy of the NVOCC's relevant tariff rule within six months of the shipment or the NVOCC was listed on a register maintained by the Commission or a private vendor.

ANERA et al. note that the Interim Rule sets forth a procedure whereby ocean common carriers are required to ascertain whether cargo tendered to them is from an NVOCC and, if so, obtain documentation indicating NVOCC compliance. They further note that ocean carriers are required to annotate each bill of lading with each shipper's status. ANERA et al. suggest that shippers should certify their status in writing, on a bill of lading or separate document, and that carriers should be permitted to rely thereon to be in compliance with the 1990 Amendments and regulations. It is argued that since the 1990 Amendments were intended to establish requirements for NVOCCs, NVOCCs should have the burden of certifying their status and compliance. ANERA et al. suggest that such a certification could be made on a separate document or as a stamp on a bill of lading.

The Japan Conference contend that the Interim Rule's requirement for a "customer checkoff procedure" on carriers' bills of lading will result in substantial start-up costs and lost employee labor. They suggest that such a costly procedure should not be implemented on a interim basis when it may later be dismantled based on further review and analysis. There is allegedly no statutory authority for such a scheme. The Japan Conferences contend that a carrier's bona fide efforts to ascertain whether a given shipper is an NVOCC and, if so, in compliance, do not require it to "catechize" every customer nor record such information on thousands of bills of lading. They question whether the shipper's status declaration will advance the objectives of the 1990 Amendments. The Japan Conferences advise that the majority of a carrier's customers are those with which it has a longstanding relationship and, therefore, do not necessitate a daily recordation of their status.

The Japan Conferences believe that a better option is to leave the question of proof to the carriers, explaining that if a carrier has a reasonable basis to conclude that its customer is a true shipper or a tariffed and bonded NVOCC, then nothing further would be required. Where a customer is unknown to the carrier, they suggest that a true shipper could provide a written statement that it is not an NVOCC, and an NVOCC could provide its relevant bonding rule or indicate that its name appears on a list of tariffed and bonded NVOCCs prepared (or accepted) by the Commission.

APL addresses only those portions of the Interim Rule dealing with the ascertainment of shipper status. APL contends that the Interim Rule's requirement that carriers find out each shipper's status means that a carrier will "know" that a shipper is an NVOCC, if disclosed. APL then contends that even inadvertent violations by a carrier could violate the "knowing and willful" standard of section 10(b)(14) of the 1984 Act.

APL also takes issue with the requirement of § 580.5(d)(25) of the Interim Rule that an ocean common carrier obtain documentation of an NVOCC's tariff and bond compliance before it accepts or transports cargo for the account of the NVOCC. APL contends that the nature of multinational transportation makes it impossible to comply with the

[10] These conferences include: Australia/Eastern U.S.A. Shipping Conference; New Zealand/U.S. Atlantic & Gulf Shipping Lines Rate Agreement; Israel Eastbound Conference; Israel Westbound Conference; U.S. Atlantic & Gulf Ports/Eastern Mediterranean and North African Freight Conference; U.S. Atlantic & Gulf/Australia-New Zealand Conference; U.S. Atlantic & Gulf Western Mediterranean Rate Agreement; South Europe/U.S.A. Freight Conference; The "8900" Lines; USA-North Europe Rate Agreement; and North Europe-USA Rate Agreement.

[11] These are: Asia North America Eastbound Rate Agreement; Australia/Eastern U.S.A. Shipping Conference; Israel Eastbound Conference; Israel Westbound Conference; U.S. Atlantic & Gulf/Australia-New Zealand Conference; U.S. Atlantic & Gulf Western Mediterranean Rate Agreement; South Europe/U.S.A. Freight Conference; and the "8900" Lines (referred to herein collectively as "ANERA et al."). The Greece Westbound Conference and the Turkey/U.S. Atlantic & Gulf Rate Agreement later joined in these comments.

[12] These latter two comments are identical and will, accordingly, be referred to as "IAFC et al."

requirement. APL points to the scenario of a foreign connecting carrier receiving cargo in Asia for ultimate transshipment by APL under a joint through bill of lading issued by the connecting carrier. APL submits that the joint bill of lading will be its bill of lading, yet the shipper status determination will have been made by the foreign issuing carrier who may be immune from FMC jurisdiction. APL thus suggests deleting the phrase "accepting or transporting cargo for the account" from § 580.5(d)(25)(i) and inserting instead "issuing a bill of lading, waybill or other substitute record of carriage for the benefit."

Ultimately APL contends that ocean common carriers should not be burdened with identifying a shipper's status and policing its compliance. At the very least, APL contends that carriers should have no obligation beyond ascertaining NVOCC or non-NVOCC status and identifying NVOCC status on a bill of lading.

IAFC et al. argue that the Commission should delete the requirement in § 580.5(d)(25) that carriers ascertain the identity and status of every shipper. They believe that only NVOCCs should be required to identify themselves. IAFC et al. contend that the requirement is not only beyond what was authorized and intended by Congress but also too vague and uncertain to enable compliance. IAFC et al. suggest that the Commission establish and make available a list of NVOCCs, indicating their compliance. They contend that such a list will avoid duplicative compliance checks by carriers and provide certainty to the industry.

IAFC et al. also question what is required in the way of a carrier tariff rule by § 580.5(d)(25). They note that the 21 paragraphs currently in effect generally indicate what the corresponding rule of each tariff must provide. However, they note further that § 580.5(d)(25) is inconsistent with this approach since it merely imposes regulatory requirements on carriers and does not state what any tariff rule must contain.

Lastly, IAFC et al. believe that the prohibition against accepting cargo from an untariffed and unbonded NVOCC does not apply to service contracts entered into prior to the effective date of the Interim Rule. They submit that otherwise a foreign, non-complying NVOCC could seek damages in a foreign court against a carrier that refused to transport cargo under a service contract. They also note the dichotomous treatment of carriage pursuant to tariff rates and service contracts, both under the statute itself and the Interim Rule. Moreover, they contend that there is no direct prohibition against a carrier's continuing to adhere to an existing service contract regardless of that NVOCC's compliance. They submit that Rule 25 is not required to be included in a service contract or an essential terms publication and, even if it were, there is no indication that it should apply retroactively.

Discussion

Any emergency comment requesting a postponement of the effective date of the Interim Rule or an exemption from the requirements of the 1990 Amendments for a period of time has been addressed in our Order of February 13, 1991, and will not be further discussed here. All other emergency comments have been fully considered by the Commission. Many of these comments do not necessarily require immediate attention or action, and will be more appropriately considered in connection with the final rule. Those comments requiring immediate attention are addressed below.

Section 581.11 of the Interim Rule does not necessarily require a shippers' association negotiating a service contract to disclose all of its membership to an ocean common carrier or conference. A shippers' association is required to disclose its status as a shippers' association and the status of its members. However, only if one or more members of the association is identified as an NVOCC must the carrier or conference then obtain sufficient documentation that those particular members are in compliance with the requirements of the 1990 Amendments. Section 581.11(b) indicates that carriers can accept a copy of an NVOCC's Rule 24 as documenting its compliance. This portion of the Interim Rule does not, therefore, require shippers' associations to disclose their entire membership, unless comprised entirely of NVOCCs.[13] Permitting ocean carriers the opportunity to ascertain NVOCC compliance by reference to the NVOCC member's tariff rule does not appear to raise an unwarranted opportunity for ocean carriers to solicit the business of the NVOCC members of a shippers' association at that point.

Nor does the Interim Rule limit the members of a shippers' association who can take advantage of a service contract to only those who were members at the time the contract was signed. Section 581.11 does require a certification at the time of contract signing as to every "* * * member of a shippers' association entitled to receive service under the contract." This certification obviously applies only to members at the time of signing. However, the Commission's rules recognize that membership in a shippers' association is not static and, unless a service contract is specifically limited to named members of a shippers' association, members may join a shippers' association during the term of the service contract and take advantage of its terms. See 46 CFR 581.4(a)(1)(vi). Any new member of a shippers' association desiring to use a service contract after it was signed would, at the time of its first shipment, either on its own or through its association, have to indicate its status as an NVOCC and its compliance with the NVOCC requirements.

Section 583.3(a) of the Interim Rule provides in part that no person shall provide transportation as an NVOCC unless a surety bond covering such NVOCC has been furnished to the Commission. In addition, this provision further prohibits anyone from "* * * obtain[ing] transportation for the account of such NVOCC unless a surety bond covering such NVOCC has been furnished to the Commission." This latter provision was intended to impose requirements on NVOCCs and common carriers only. It was not the Commission's intent to subject any other persons to those requirements. We believe this clarification is sufficient to make unnecessary any revision to this provision of the Interim Rule at this time.[14]

The Commission is mindful of the concerns raised about the shipper status declaration procedure set forth in § 580.5(d)(25)(i) of the Interim Rule. This provision requires common carriers to ascertain the identity and status of the shipper tendering cargo and to state such status on the carrier's bill of lading or other record of carriage. This procedure was originally proposed so that, in conjunction with § 580.5(d)(25)(ii)—requiring a common carrier to obtain documentation of an identified NVOCC's compliance with the requirements of the 1984 Act-carriers could ensure against liability under section 10(b)(14) of the 1984 Act. Several conferences and carriers have indicated that this procedure will cause them to

[13] Streamline itself would not appear to have any problem with this aspect of the Interim Rule since its members, by its own admission, are "manufacturers or other beneficial owners of freight," and not NVOCCs.

[14] We caution, however, that persons who obtain transportation for an NVOCC, with knowledge that that NVOCC is not bonded or tariffed, could violate section 10(a)(1) of the 1984 Act, depending on the circumstances

incur substantial start-up expenses and lost employee labor to initiate such procedures and question the advisability of doing so on an interim basis if a different procedure may emerge in the final rule. The Commission finds merit to this argument. We will, therefore, stay the effectiveness of § 580.5(d)(25)(i) until a final rule is adopted after further public comment. All commenters are encouraged to offer alternative means by which carriers can be protected from potential liability under the 1984 Act. Shippers entering into service contracts will, however, remain subject to the status declaration requirement of § 581.11(a) of the Interim Rule.

The Interim Rule does not require ocean carriers to "interrogate" their customers any more than is warranted. During the course of each transportation transaction ocean carriers obtain a plethora of information from their shipper customers. If information indicates that the shipper is an NVOCC, then the carrier must obtain documentation indicating NVOCC compliance. In this regard, all a carrier need do under the Interim Rule is review a copy of the NVOCC's applicable tariff rule. Rather than burdening the ocean carrier industry with unwarranted enforcement responsibilities, this procedure would seem to be relatively simple. And, if a carrier follows it, it would have no liability under sections 10(b) (14) or (15) unless it has knowledge otherwise. See §§ 580.5(d)(25)(iii) and 581.11(c) of the Interim Rule. This is not to state, however, as some commenters apparently believe, that this is the only procedure that would permit a carrier to avoid liability. The legislative history of the 1990 Amendments expressly advises that a carrier should not be found to have violated the "knowingly and willfully" standard of section 10(b) (14) or (15) if it "does not know a given shipper is an NVOCC * * *" with a valid tariff or bond "and makes bona fide efforts" to ascertain whether such shipper is a bonded, tariff NVOCC. See H. Rep. No. 785, 101st Cong., 2d Sess. 3 (1990). Therefore, carriers are free to accept other means which satisfy them that an NVOCC is in compliance.

Questions have arisen as to the frequency with which common carriers must obtain documentation indicating that an NVOCC has complied with the 1990 Amendments. The Supplementary Information to the Interim Rule merely indicated carriers could require "periodic resubmissions" of such documentation. Until such time as a final rule is adopted, the Commission will interpret "periodic resubmission" to require re-certification every six months. This will require carriers to keep accurate records of compliance checks and to be aware of when a resubmission is necessary from a particular NVOCC customer.

In a legitimate co-loading situation otherwise governed by the Commission's tariff rules, 46 CFR 580.5(c)(14), the only status that must be declared to the ocean common carrier and the only compliance that must be verified is that of the master co-loader who appears as "shipper" on the ocean carrier's bill of leading. Ocean carriers would not need to verify compliance of other NVOCCs whose cargo may be included in the master co-loader's shipment. However, the master co-loader, as a common carrier, would have its own obligation to verify the compliance of subordinate co-loading NVOCCs who tender their cargo pursuant to the master's tariff. See § 580.5(d)(25) of the Interim Rule.

We see no need at this time to specify any particular limitations on the liability of the resident agent required of NVOCCs not domiciled in the United States. This resident agent is not a general agent, but rather a special agent authorized to accomplish only one specific activity—receive judicial and administrative process. Such an agent has only one function to perform for a foreign NVOCC and as a result would appear to have no potential for incurring liabilities for the actions or omissions of its NVOCC principal.

The Commission cannot at this juncture permit the combining of ocean freight forwarder and NVOCC bonds. Each bond is intended to cover separate activities of what are generally separate entities. Even though some entities may perform the services of both an NVOCC and an ocean freight forwarder, they cannot do so at the same time or on the same shipment. The users of these services are also in two distinct classes. Besides being contrary to the clear language of the statute, inasmuch as both the freight forwarder provision and the NVOCC provision require separate bonds for separate activities, any attempt to allow one bond to cover both activities could seriously undermine the protection such bonds afford.

The suggestions that the shipper status declaration be reduced to a statement of "NVOCC" or "Non-NVOCC," that the regulations permit carriers to maintain a file of shipper status declarations, or that the Commission or some private party publish a list of NVOCCs who are tariffed and bonded and that carriers be permitted to rely on such a list, simply set forth alternatives to the procedure contained in the Interim Rule. To the extent that these suggestions are not accommodated by our action herein, they will be considered in connection with the promulgation of a final rule.

NVOCCs who are signatories to existing service contracts will not have to comply with the certification requirement contained in § 581.11(a) of the Interim Rule. Ocean common carriers and conferences will nonetheless have to ascertain such NVOCCs' compliance with the tariff and bonding requirements, not as part of the service contract process, but whenever the first shipment occurs after the Interim Rule goes into effect. Section 580.5(d)(25)(ii) requires that if the shipper tendering the cargo is an NVOCC, then the carrier must obtain documentation that the NVOCC is tariffed and bonded. This provision will apply to cargo carried pursuant to an existing service contract. It will not be applicable to new service contracts entered into after the effective date of the Interim Rule because the certification and documentation requirements of section 581.11 will then apply.

The Commission cannot, of course, take any action that would be directly contrary to the 1990 Amendments. Consequently, we cannot "repeal" the 1990 Amendments, or reconsider the implementation of the bond requirement, or reduce the bond level, as some commenters have requested. The Commission also cannot broaden the Interim Rule at this time to include NVOCCs that exclusively carry used military household goods and personal effects. It appears clear that Congress intended that such NVOCCs be exempted from the requirements of the 1990 Amendments. See H.R. Rep. No. 785, 101st Cong., 2d Sess. 4 (1990), where the Committee on Merchant Marine and Fisheries stated that it expected the FMC to exempt such NVOCCs from the requirements of the 1990 Amendments, simultaneous with its effective date. The Committee further noted, however, that the Commission should reexamine any such exemption if the military bonding requirement or the Commission's tariff-filing exemption is altered. *Id.* Anyone believing that such a reexamination is warranted can submit comments in the course of the full rulemaking proceeding.

The foregoing addresses all concerns which the Commission believes fall within the "emergency" category. As indicated, no substantive changes to the Interim Rule are being made at this time. Those "emergency" comments which identify issues which more appropriately should be considered at

the time a final rule is being prepared, will be considered during that process.

Therefore, it is ordered, That § 580.5(d)(25)(i) of the Interim Rule is stayed pending issuance of a final rule in this proceeding; and

It is further ordered, That § 580.5(d)(25) (ii) and (iii) of the Interim Rule shall be read to conform with the stay of § 580.5(d)(25)(i).

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-8144 Filed 4-5-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-564; RM-7469]

Radio Broadcasting Services; Waynesboro, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Pioneer Radio, Inc., permittee of Station WTNR(FM), Channel 235A, Waynesboro, Tennessee, substitutes Channel 235C3 for Channel 235A at Waynesboro, Tennessee, and modifies its authorization to specify operation on the higher powered channel. *See* 55 FR 49543, November 29, 1990. Channel 235C3 can be allotted to Waynesboro, Tennessee, in compliance with the Commission's minimum distance separation requirements at the transmitter site specified in Station WTNR(FM)'s construction permit. The coordinates for Channel 235C3 are North Latitude 35-14-04 and West Longitude 87-42-50. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 20, 1991.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-564, adopted March 25, 1991, and released April 3, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of the decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Channel 235A and adding Channel 235C3 at Waynesboro.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-8195 Filed 4-5-91; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 56, No. 67
Monday, April 8, 1991

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

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

RIN 0580-AA11

United States Standards for Rice

AGENCY: Federal Grain Inspection Service, USDA. [1]

ACTION: Proposed rule; modified.

SUMMARY: This action is a modification of the proposed rule published in the Federal Register on February 8, 1990. The Federal Grain Inspection Service (FGIS) is proposing to amend the United States Standards for Rough Rice, Brown Rice for Processing, and Milled Rice to establish a special grade for glutinous rice. Glutinous rice (also known as waxy or sweet rice) is characterized by its chalky appearance. Chalky (nontranslucent) kernels are considered undesirable in nonglutinous rice, and the U.S. Standards for Rice contain grade limits for them. But, in the market for glutinous rice, the chalky characteristic is acceptable. Therefore, to facilitate the marketing of glutinous rice, FGIS is proposing to established special grades for all types and classes of glutinous rice and to revise the U.S. Standards for Rice so that the grading factor "chalky kernels" does not apply to rice assigned this special grade.

DATES: Comments must be submitted on or before June 7, 1991.

ADDRESSES: Comments must be submitted in writing to Allen A. Atwood, Federal Grain Inspection Service, USDA, Room 0628 South Building, P.O. Box 96454, Washington, DC, 20090-6454; telemail users may respond to (IRSTAFF/FGIS/USDA) telemail; telex users may respond as follows: to Allen A. Atwood, TLX: 7607351, ANS/FGIS UC; and telecopy users may send responses to the automatic telecopier machine at (202) 447-4628.

All comments received will be available for inspection at Room 0628 South Building, 1400 Independence Avenue SW., Washington, DC, during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: Alan A. Atwood, address as above, telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

John C. Foltz, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities.

Background

A previous proposal to amend the U.S. Standards for Rough Rice (7 CFR 68.201 *et seq.*), Brown Rice for Processing (7 CFR 68.251 *et seq.*), and Milled Rice (7 CFR 68.301 *et seq.*), was published in the February 8, 1990, Federal Register (55 FR 4582). Interested persons were invited to submit written comments. This proposal was developed at the request of organizations that market glutinous (sweet) rice.

The original 60-day comment period ended April 9, 1990. A total of three comments were received from rice milling companies and cooperatives that market glutinous rice in California. The three comments, which were essentially identical, supported establishment of standards for glutinous rice. But, the commenters expressed concern about the use of the term "sweet rice." They recommended that the internationally-accepted nomenclature "glutinous rice" be used instead. The commenters also felt that standards solely for short grain glutinous rice would not address the future needs of the glutinous rice industry. They recommended that the standards be broadened to encompass long grain and medium grain rice. Additionally, the commenters stated that the proposed requirement that sweet rice must contain 99.0 percent or more chalky kernels is too restrictive. They suggested that the requirement be changed to "more than 50 percent chalky kernels." They also suggested that "nonchalky kernels" be considered as a grading factor in glutinous rice and that grade limits be established.

In view of the comments received, FGIS has decided that the original proposal would not meet the needs of the glutinous rice industry. Therefore, FGIS has decided to modify the proposed rule by:

1. Changing the term "sweet rice," to "glutinous rice." The term "glutinous rice" is more internationally-accepted nomenclature. For example, the International Organization for Standardization (ISO) uses the term "glutinous rice" in its rice standards (ISO 7301, "Rice-Specifications").

2. Deleting the proposed establishment of two subclasses for short grain rice; i.e., short grain rice and short grain sweet rice. The scope of the glutinous rice industry is not, as FGIS originally understood, limited to short grain glutinous rice.

3. Establishing a special grade for glutinous rough rice, glutinous brown rice for processing, and glutinous milled rice. This special grade would be applicable to all classes of rice, except brewers milled rice.

4. Defining glutinous rice, in part, as rice that contains more than 50 percent chalky kernels and including in this definition grade limits for nonchalky kernels. This definition and the accompanying grade limits were recommended by the commenters to the original proposal.

5. Excluding the grading factor "chalky kernels" from being applied to glutinous rice. The original proposal had provisions excluding the application of this grading factor to rice in the subclass short grain sweet rice.

[1] The authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), concerning inspection and standardization activities related to grain and similar commodities and products thereof has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.5).

Proposed Action

Based on current market needs, FGIS is proposing to revise:

1. Section 68.210 by adding footnote number 2 to the factor column for "Chalky kernels." The new footnote directs users to reference § 68.212(d) for information about glutinous rough rice. Footnotes that are presently numbered 2 and 3 are proposed to be renumbered 3 and 4, respectively.

2. Section 68.212 by adding a new subsection, § 68.212(d), that defines glutinous rough rice and establishes grade limits for nonchalky kernels.

3. Section 68.213 by adding a special grade designation for glutinous rough rice.

4. Section 68.261 by adding footnote number 2 to the factor column for "Chalky kernels." The new footnote directs users to reference § 68.263(c) for information about glutinous brown rice for processing. Footnotes that are presently numbered 2 and 3 are proposed to be renumbered 3 and 4, respectively.

5. Section 68.263 by adding a new paragraph (c), that defines glutinous brown rice for processing and establishes grade limits for nonchalky kernels.

6. Section 68.264 by adding a special grade designation for glutinous brown rice for processing.

7. Section 68.310 by adding footnote number 2 to the factor column for "Chalky kernels." The new footnote directs users to reference § 68.315(e) for information about glutinous milled rice. Footnotes that are presently numbered 2, 3, 4, and 5 are proposed to be renumbered 3, 4, 5, and 6, respectively.

8. Section 68.311 by adding footnote number 3 to the factor column for "Chalky kernels." The new footnote directs users to reference § 68.315(e) for information about glutinous milled rice.

9. Section 68.312 by adding footnote number 3 to the factor column for "Chalky kernels." The new footnote directs users to reference § 68.315(e) for information about glutinous milled rice. Footnotes that are presently numbered 2, 3, and 4 are proposed to be renumbered 3, 4, and 5, respectively.

10. Section 68.315 by adding a new paragraph (e), that defines glutinous milled rice and establishes grade limits for nonchalky kernels.

11. Section 68.316 by adding a special grade designation for glutinous milled rice.

List of Subjects in 7 CFR Part 68

Administrative practice and procedures, Agricultural commodities, Rice.

For reasons set forth in the preamble, 7 CFR part 68 is amended as follows:

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND THEIR PRODUCTS

1. The authority citation for part 68 continues to read as follows:

Authority: Sections. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

2. Section 68.210 is revised to read as follows:

§ 68.210 Grades and grade requirements for the classes of rough rice. (See also § 68.212.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum Limits of—							Color Requirements [1]
	Seeds and Heat—Damaged Kernels			Red Rice and Damaged Kernels (Singly or Combined)	Chalky Kernels [1 2]		Other Types [3]	
	Total (Singly or Combined)	Heat—Damaged Kernels and Objectionable Seeds (Singly or Combined)	Heat—Damaged Kernels		In long Grain Rice	In Medium or Short Grain Rice		
	Number in 500 grams	Number in 500 grams	Number in 500 grams	Percent	Percent	Percent	Percent	
U.S. No. 1	4	3	1	0.5	1.0	2.0	1.0	Shall be White or Creamy
U.S. No. 2	7	5	2	1.5	2.0	4.0	2.0	May be Slightly Gray
U.S. No. 3	10	8	5	2.5	4.0	6.0	3.0	May be Light Gray
U.S. No. 4	27	22	15	4.0	6.0	8.0	5.0	May be Gray or Slightly Rosy
U.S. No. 5	37	32	25	6.0	10.0	10.0	10.0	May be Dark Gray or Rosy
U.S. No. 6	75	75	75	[4] 15.0	15.0	15.0	10.0	May Be Dark Gray or Rosy

U.S. Sample grade:

U.S. Sample grade shall be rough rice which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6, inclusive; (b) contains more than 14.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; or (e) is otherwise of distinctly low quality.

[1] For the special grade Parboiled rough rice, see § 68.212(b).
[2] For the special grade Glutinous rough rice, see § 68.212(d).
[3] These limits do not apply to the class Mixed Rough Rice.
[4] Rice in grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

3. Section 68.212(d) is added to read as follows:

§ 68.212 Special grades and special grade requirements.

* * * * *

(d) *Glutinous rough rice.* Glutinous rough rice shall be special varieties of rice (Oryza sativa L. glutinosa) which contain more than 50 percent chalky kernels. Grade U.S. No. 1 shall contain not more than 1.0 percent of nonchalky kernels, grade U.S. No. 2 not more than 2.0 percent of nonchalky kernels, grade U.S. No. 3 not more than 4.0 percent of nonchalky kernels, grade U.S. No. 4 not more than 6.0 percent of nonchalky kernels, grade U.S. No. 5 not more than 10.0 percent of nonchalky kernels, and grade U.S. No. 6 not more than 15.0 percent of nonchalky kernels.

Note: The maximum limits for "Chalky kernels" in § 68.210 are not applicable to the special grade "Glutinous rough rice."

4. Section 68.213 is revised to read as follows:

§ 68.213 Special grade designation.

The grade designation for infested, parboiled, smutty, or glutinous rough rice shall include, following the class, the word(s) "Infested," "Parboiled

Light," "Parboiled," "Parboiled Dark," "Smutty," or "Glutinous," as warranted, and all other information prescribed in § 68.211.

5. Section 68.261 is revised to read as follows:

§ 68.261 Grade and grade requirements for the classes of brown rice for processing. (See also § 68.263.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum Limits of—									
	Paddy Kernels	Paddy Kernels	Seeds and Heat—Damaged Kernels			Red Rice and Damaged Kernels (Singly or Combined)	Chalky Kernels [1] [2]	Broken Kernels Removed by a 6 Plate or a 6 1/2 Sieve [3]	Other Types [4]	Well—Milled Kernels
	Percent	Number in 500 grams	Total (Singly or Combined) Number in 500 grams	Heat—Damaged Kernels Number in 500 grams	Objectionable Seeds Number in 500 grams	Percent	Percent	Percent	Percent	Percent
U.S. No. 1	—	20	10	1	2	1.0	2.0	1.0	1.0	1.0
U.S. No. 2	2.0	—	40	2	10	2.0	4.0	2.0	2.0	3.0
U.S. No. 3	2.0	—	70	4	20	4.0	6.0	3.0	5.0	10.0
U.S. No. 4	2.0	—	100	8	35	8.0	8.0	4.0	10.0	10.0
U.S. No. 5	2.0	—	150	15	50	15.0	15.0	6.0	10.0	10.0

U.S. Sample grade:

U.S. Sample grade shall be brown rice for processing which (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive: (b) contains more than 14.5 percent of moisture: (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.2 percent of related material or more than 0.1 percent of unrelated material; (f) contains two or more live weevils or other live insects; or (g) is otherwise of distinctly low quality.

[1] For the special grade Parboiled brown rice for processing, see § 68.263(a).
[2] For the special grade Glutinous brown rice for processing, see § 68.263(c).
[3] Plates should be used for southern production rice and sieves should be used for western production rice, but any device or method which gives equivalent results may be used.
[4] These limits do not apply to the class Mixed Brown Rice for Processing.

6. Section 68.263(c) is added to read as follows:

§ 68.263 Special grades and special grade requirements.

* * * * *

(c) Glutinous brown rice for processing. Glutinous brown rice for processing shall be special varieties of rice (Oryza sativa L. glutinosa) which contain more than 50 percent chalky kernels. Grade U.S. No. 1 shall contain not more than 1.0 percent of nonchalky kernels, grade U.S. No. 2 not more than 2.0 percent of nonchalky kernels, grade U.S. No. 3 not more than 4.0 percent of nonchalky kernels, grade U.S. No. 4 not more than 6.0 percent of nonchalky kernels, and grade U.S. No. 5 not more than 10.0 percent of nonchalky kernels.

Note: The maximum limits for "Chalky kernels" in § 68.261 are not applicable to the special grade "Glutinous brown rice for processing."

7. Section 68.264 is revised to read as follows:

§ 68.264 Special grade designation.

The grade designation for parboiled, smutty, or glutinous brown rice for processing shall include, following the class, the word(s) "Parboiled," "Smutty," or "Glutinous," as warranted, and all other information prescribed in § 68.262.

8. Section 68.310 is revised to read as follows:

§ 68.310 Grades and grade requirements for the classes Long Grain Milled Rice, Medium Grain Milled Rice, Short Grain Milled Rice, and Mixed Milled Rice. (See also § 68.315.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum Limits of—											Color Requirements [1]	Minimum Milling Requirements [2]
	Seeds, Heat—Damaged, and Kernels (Singly or Combined)		Red Rice and Damaged Kernels (Singly or Combined)	Chalky Kernels [1] [2]		Broken Kernels				Other Types [4]			
	Total	Heat Damaged Kernels and Objectionable Seeds		In Long Grain Rice	In Medium or Short Grain Rice	Total	Removed by a 5 Plate [3]	Removed by a 6 Plate [3]	Through a 6 Sieve [3]	Whole Kernels	Whole and Broken Kernels		
	Number in 500 grams	Number in 500 grams	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent		
U.S. No. 1	2	1	0.5	1.0	2.0	4.0	0.04	0.1	0.1	—	1.0	Shall be White or Creamy.	Well Milled
U.S. No. 2	4	2	1.5	2.0	4.0	7.0	0.06	0.2	0.2	—	2.0	May be Slightly Gray	Well Milled
U.S. No. 3	7	5	2.5	4.0	6.0	15.0	0.1	0.8	0.5	—	3.0	May be Light Gray	Reasonably Well Milled
U.S. No. 4	20	15	4.0	6.0	8.0	25.0	0.4	2.0	0.7	—	5.0	May be Gray or Slightly Rosy.	Resonably Well Milled

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS—Continued

Grade	Maximum Limits of—											Color Requirements [1]	Minimum Milling Requirements [2]
	Seeds, Heat—Damaged, and Kernels (Singly or Combined)		Red Rice and Damaged Kernels (Singly or Combined)	Chalky Kernels [1 2]		Broken Kernels				Other Types [4]			
	Total	Heat Damaged Kernels and Objectionable Seeds		In Long Grain Rice	In Medium or Short Grain Rice	Total	Removed by a 5 Plate [3]	Removed by a 6 Plate [3]	Through a 6 Sieve [3]	Whole Kernels	Whole and Broken Kernels		
	Number in 500 grams	Number in 500 grams	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent		
U.S. No. 5	30	25	6.0 [5]	10.0	10.0	35.0	0.7	3.0	1.0	10.0	—	May be Dark Gray or Rosy.	Lightly Milled
U.S. No. 6	75	75	15.0 [6]	15.0	15.0	50.0	1.0	4.0	2.0	10.0	—	May be Dark Gray or Rosy.	Lightly Milled

U.S. Sample grade:

U.S. Sample grade shall be milled rice of any of these classes which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6, inclusive; (b) contains more than 15.0 percent of Moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.

[1] For the special grade Parboiled milled rice, see § 68.315(e).
[2] For the special grade Glutinous milled rice, see § 68.315(e).
[3] Plates should be used for southern production rice; and sieves should be used for western production rice, but any device or method which gives equivalent results may be used.
[4] These limits do not apply to the class Mixed Milled Rice.
[5] For the special grade Undermilled milled rice, see § 68.315(d).
[6] Grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

9. Section 68.311 is revised to read as follows:

§ 68.311 Grades and grade requirements for the class Second Head Milled Rice. (See also § 68.305.)

Grade	Maximum Limits Of—				Color Requirements [1]	Minimum Milling Requirements [2]
	Seeds, Heat—Damaged, and Paddy Kernels (Singly or Combined)		Red Rice and Damaged Kernels (Singly or Combined)	Chalky Kernels [1 3]		
	Total	Heat—Damaged Kernels and Objectionable Seeds				
	Number in 500 grams	Number in 500 grams	Percent	Percent		
U.S. No. 1	15	5	1.0	4.0	Shall be White or Creamy	Well Milled
U.S. No. 2	20	10	2.0	6.0	May be Slightly Gray	Well Milled
U.S. No. 3	35	15	3.0	10.0	May be Light Gray	Reasonably Well Milled
U.S. No. 4	50	25	5.0	15.0	May Be Gray or Slightly Rosy	Reasonably Well Milled
U.S. No. 5	75	40	10.0	20.0	May Be Dark Gray or Rosy	Lightly Milled

U.S. Sample grade:

U.S. Sample grade shall be milled rice of this class which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.

[1] For the special grade Parboiled milled rice, see § 68.315(c).
[2] For the special grade Undermilled milled rice, see § 68.315(d).
[3] For the special grade Glutinous milled rice, see § 68.315(e).

10. Section 68.312 is revised to read as follows:

§ 68.312 Grades and grade requirements for the class Screenings Milled Rice. (See also § 68.315.)

Grade	Maximum Limits Of—			Color Requirements [1]	Minimum Milling Requirements [2]
	Paddy Kernels and Seeds		Chalky Kernels [1 3]		
	Total (Singly or Combined)	Objectionable Seeds			
	Number in 500 grams	Number in 500 grams	Percent		
U.S. No. 1 [4 5]	30	20	5.0	Shall be White or Creamy	Well Milled
U.S. No. 2 [4 5]	75	50	8.0	May Be Slightly Gray	Well Milled
U.S. No. 3 [4 5]	125	90	12.0	May be Light Gray or Slightly Rosy	Reasonably Well Milled
U.S. No. 4 [4 5]	175	140	20.0	May Be Gray or Rosy	Reasonably Well Milled
U.S. No. 5	250	200	30.0	May be Dark Gray or Very Rosy	Lightly Milled

U.S. Sample grade:

U.S. Sample grade shall be milled rice of this class which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance; (f) contains more than 0.1 percent or foreign material; (g) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (h) is otherwise of distinctly low quality.

[1] For the special grade Parboiled milled rice, see § 68.315(c).
[2] For the special grade Undermilled milled rice, see § 68.315(d).
[3] For the special grade Glutinous milled rice, see § 68.315(e).
[4] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more that 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.
[5] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve.

11. Section 68.315(e) is added to read as follows:

§ 68.315 Special grades and special grade requirements.

* * * * *

(e) *Glutinous milled rice.* Glutinous milled rice shall be special varieties of rice (Oryza sativa L. glutinosa) which contain more than 50 percent chalky kernels. For long grain, medium grain, and short grain milled rice, grade U.S. No. 1 shall contain not more than 1.0 percent of nonchalky kernels, grade U.S. No. 2 not more than 2.0 percent of nonchalky kernels, grade U.S. No. 3 not more than 4.0 percent of nonchalky kernels, grade U.S. No. 4 not more than 6.0 percent of nonchalky kernels, grade U.S. No. 5 not more than 10.0 percent of nonchalky kernels, and grade U.S. No. 6 not more than 15.0 percent of nonchalky kernels. For second head milled rice, grade U.S. No. 1 shall contain not more than 4.0 percent of nonchalky kernels, grade U.S. No. 2 not more than 6.0 percent of nonchalky kernels, grade U.S. No. 3 not more than 10.0 percent of nonchalky kernels, grade U.S. No. 4 not more than 15.0 percent of nonchalky kernels, and grade U.S. No. 5 not more than 20.0 percent of nonchalky kernels. For screenings milled rice, there are no grade limits for percent of nonchalky kernels. For brewers milled rice, the special grade "Glutinous milled rice" is not applicable.

Note: The maximum limits for "Chalky kernels," shown in § 68.310, § 68.311, and § 68.312 are not applicable to the special grade "Glutinous milled rice."

12. Section 68.316 is revised to read as follows:

§ 68.316 Special grade designation.

The grade designation for coated, granulated brewers, parboiled, undermilled, or glutinous milled rice shall include, following the class, the word(s) "Coated," "Granulated," "Parboiled Light," "Parboiled," "Parboiled Dark," "Undermilled," or "Glutinous," as warranted, and all other information prescribed in § 68.314.

* * * * *

Dated: January 3, 1991.

John C. Foltz,

Administrator.

[FR Doc. 91-7997 Filed 4-5-91; 8:45 am]

BILLING CODE 3410-EN-M

Rural Electrification Administration

7 CFR Parts 1728 and 1755

Standards and Specifications for Timber Products Acceptable for Use on REA-Financed Electric and Telephone Systems

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR Part 1728, Electric Standards and Specifications for Materials and Construction, by revising REA Bulletin 50-17(DT-5B), "REA Specification for Wood Crossarms (Solid and Laminated), Transmission Timbers and Pole Keys;" REA Bulletin 50-18(DT-5C), "REA Specification for Wood Poles, Stubs and Anchor Logs;" and REA Bulletin 50-24(DT-19), "REA Specification for Quality Control and Inspection of Timber Products." REA proposes to renumber and reformat these bulletins in accordance with the Agency's new publications and directives system. The new bulletins will bear numbers that are derived from their CFR parts. Bulletin 50-17(DT-5B) is proposed to be renumbered as Bulletin 1728-17(DT-5B). Bulletin 50-18(DT-5C) is proposed to be renumbered as Bulletin 1728-18(DT-5C). Bulletin 50-24(DT-19) is proposed to be renumbered as Bulletin 1728-24(DT-19). REA also proposes to amend 7 CFR part 1755, Telecommunications Standards and Specifications for Materials, Equipment and Construction, by reflecting the revision of Bulletin 1728-18(DT-5C) and Bulletin 1728-24(DT-19. These three bulletins contain the REA specifications for timber products to be purchased by REA borrowers. These bulletins are now incorporated by reference in REA regulations for both electric and telephone programs. The primary changes being proposed are: (1) The addition to Copper Naphthenate as an acceptable preservative system; (2) inclusion of the revisions from American National Standards Institute (ANSI) 05.1-1987 into Bulletin 1728-18(DT-5C); (3) revision of usage areas and required retentions for poles; (4) removal of carriers type B, D and E for preservatives; and (5) revision of Bulletin 1728-17(DT-5B) to include numerous changes brought about in the ANSI crossarm specification.

DATES: Public comments must be received by REA or bear a postmark of later than May 8, 1991.

ADDRESSES: Submit written comments to Mr. H. Robert Lash, Transmission and Timber Specialist, Transmission Branch, Electric Staff Division, Rural Electrification Administration, room 1246–S, 14th and Independence Avenue SW., Washington, DC 20250–1500. REA requests an original and three copies of all comments.

FOR FURTHER INFORMATION CONTACT: Mr. H. Robert Lash, Transmission and Timber Specialist, Transmission Branch, Electric Staff Division, Rural Electrification Administration, room 1246–S, 14th and Independence Avenue SW., Washington, DC 20250–1500 or telephone (202) 382–9098.

SUPPLEMENTARY INFORMATION: Pursuant to The Rural Electrification Administration Act of 1936 as amended (7 U.S.C. 901 *et seq.*) REA proposes to revise 7 CFR chapter XVII, part 1728, Electric Standards and Specifications for Materials and Construction, by revising REA Bulletin 50–17(DT–5B), "REA Specification for Wood Crossarms (Solid and Laminated), Transmission Timbers and Pole Keys;" REA Bulletin 50–18(DT–5C), "REA Specification for Wood Poles, Stubs and Anchor Logs;" and REA Bulletin 50–24(DT–19), "REA Specification for Quality Control and Inspection of Timber Products." REA also proposes to revise 7 CFR part 1755, Telecommunications Standards and Specifications for Materials, Equipment and Construction, by reflecting the revision of Bulletin 1728–18(DT–5C) and Bulletin 1728–24(DT–19). This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity, and, therefore, has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule will not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* 1976) and, therefore, does not require an environmental impact statement or an environmental assessment.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees, 10.851 Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the Final Rule Related Notice to 7 CFR 3015 subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 that requires intergovernmental consultation with state and local officials.

The reporting and recordkeeping provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 1507 *et seq.*) contained in this proposed regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). They will not be effective until approved by OMB.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# *0572–0076*), Washington, DC 20503.

Background

The Rural Electrification Administration (REA) maintains a system of bulletins that contain construction standards and specifications for materials and equipment which are applicable to facilities constructed by REA electric and telephone borrowers in accordance with the REA loan contract. These standards and specifications contain standard construction units and material items and equipment units commonly used in REA electric and telephone borrowers' systems.

The proposed addition of Copper Naphthenate to the specifications was requested following its final approval by the American Wood Preservers' Association (AWPA). Copper Naphthenate is not a restricted-use pesticide by the Environmental Protection Agency (EPA) and does not require special handling or disposal under the Resource Conservation and Recovery Act (RCRA). Bulletins 1728–17(DT–5B) and 1728–18(DT–5C) are both proposed to include industry changes brought about by revisions of their respective ANSI specifications. While reviewing the Copper Naphthenate retentions, it was discovered that an alarming number of cooperatives in the severe decay zones were using standard retention levels. The decay zone map is proposed to be revised and the requirement to use the higher retention level in this area is proposed. The cost to use the higher retention in most cases is under $10 per pole and may increase the service life of the pole by one-third. Due to lack of use, preservative carrier types B and D are proposed to be removed from the specification. Since AWPA has not given preservative carrier type E full approval, REA proposes to remove it from the specification.

Bulletin 1728–24(DT–19) which is referenced in both Bulletins 1728–17(DT–5B) and 1728–18(DT–5C) is proposed to be revised to reflect proposed revisions to these bulletins. The title of Bulletin 1728–17(DT–5B) is proposed to be shortened to "REA Specification for Wood Crossarms."

List of Subjects

7 CFR Part 1728

Electric Utilities, Engineering Standards, Incorporation by Reference.

7 CFR Part 1755

Loan Programs—Communications, Telecommunications, Incorporation by reference.

Therefore, REA proposes to amend 7 CFR chapter XVII, parts 1728 and 1755 as follows:

PART 1728—ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

1. The authority citation for part 1728 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 7 U.S.C. 1921 *et seq.*

2. Section 1728.97, (b) is amended by removing the entries for Bulletins 50–17, 50–18 and 50–24, adding in numerical order the entries for Bulletins 1728–17(DT–5B), 1728–18(DT–5C) and 1728–24(DT–19) as follows:

§ 1728.97 Incorporation by reference of electric standards and specifications.

* * * * *

(b) List of bulletins.

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Bulletin 1728–17(DT–5B), "REA Specification for Wood Crossarms" (Month and year of publication of Final Rule) Bulletin 1728–18(DT–5C), "REA Specification for Wood Poles, Stubs and Anchor Logs" (Month and year of

publication of Final Rule) Bulletin 1728–24(DT–19), "REA Specification for Quality Control and Inspection of Timber Products" (Published date)

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PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIAL, EQUIPMENT AND CONSTRUCTION

In view of the above, REA is proposing to amend 7 CFR part 1755 to reflect the revision of Bulletin 1728–18(DT–5C) and Bulletin 1728–24(DT–19).

1. The authority cited for part 1755 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 7 U.S.C. 1921 *et seq.*

2. The table in § 1755.97 is amended by adding in numerical order entries for Bulletin 1728–18(DT–5C) and Bulletin 1728–24 DT–19 to read as follows:

§ 1755.97 Incorporation by reference of telephone standards and specifications.

* * * * *

REA Bulletin No.	Spec. No.	Date last issued	Title of standard or specification
1728–18(DT–5C).	—	Effective date of final rule.	REA specification for wood poles, stubs and anchor logs.
1728–24(DT–19).	—	Effective date of final rule.	REA specification for quality control and inspection of timber products.

* * * * *

Dated: March 26, 1991.

George E. Pratt,

Acting Administrator.

[FR Doc. 91–7827 Filed 4–5–91; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-30-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive applicable to all Boeing Model 727 series airplanes, which would require inspection of the main landing gear (MLG) door actuator attach fitting bolts, and replacement, if necessary. This proposal is prompted by reports of loose MLG door actuator attach fitting bolts that allowed movement of the fitting, which jammed the MLG door and prevented full extension of one MLG, resulting in a landing with that MLG partially extended. This condition, if not corrected, could result in a landing with one MLG partially extended.

DATES: Comments must received no later than May 28, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–30–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. Stanton R. Wood, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2772. 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–30–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

There have been two incidents involving landings with one main landing gear (MLG) partially extended on Boeing Model 727 airplanes. These incidents were attributed to the MLG door actuator attach fitting bolts being loose, which allowed movement of the fitting that jammed the MLG door and prevented full extension of the MLG; this situation resulted in a landing with one MLG partially extended. This condition, if not corrected, could result in a landing with one MLG partially extended.

The FAA has reviewed and approved Boeing Service Bulletin 727–32–0383, dated December 6, 1990, which describes procedures to inspect for loose attachment bolts and replacement with new fasteners with improved locking means.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require repetitive inspections for loose MLG door actuator attach fitting bolts and replacement, if necessary, in accordance with the service bulletin previously described. This proposed AD would also provide for an optional modification which, if accomplished, would constitute terminating action for the repetitive inspections.

There are approximately 1,710 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,143 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour 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 $45,720.

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

implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to all Model 727 series airplanes, certified in any category. Compliance required as indicated, unless previously accomplished.

To detect loose main landing gear (MLG) door actuator attach fitting bolts, accomplish the following:

A. Within the next 1,500 flight cycles after the effective date of this AD, and thereafter at intervals not to exceed 3,700 flight cycles, inspect for loose MLG door actuator attach fitting bolts in accordance with part III, Accomplishment Instructions of Boeing Service Bulletin 727-32-0383, dated December 6, 1990.

B. If the bolts are found loose, accomplish Figure 1 or 2 of Boeing Service Bulletin 727-32-0383, dated December 6, 1990.

1. If Figure 1 is accomplished, repeat the inspection required by paragraph A. of this AD at intervals not to exceed 3,700 flight cycles.

2. Accomplishment of Figure 2 constitutes terminating action for the inspection requirements of this AD.

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 Maintenance 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 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 26, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-8124 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-49-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require inspection and modification of the emergency escape system packboard assemblies. This proposal is prompted by reports of emergency escape systems not releasing from the door. This condition, if not corrected, could result in the emergency escape system not being available for emergency evacuation or the exit not being usable.

DATES: Comments must be received no later than May 21, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-49-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. Jayson Claar, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2784. 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 No. 91-NM-49-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

During recent emergency escape system testing by operators and the manufacturer on Model 747 airplanes, there were numerous cases of failures of the packboard assemblies to release the escape slides. Investigation into the failures revealed two causes for the packboard failing to release the escape slides properly:

One cause of failure is the excessive bending and twisting of the packboard release shaft assembly. When the escape slide is packed into the packboard, the release shaft assembly attach pins are aligned with the D-rings on the packboard cover and the release shaft assembly is then rotated into the cocked position pulling the packboard cover taut. The load on the release shaft assembly causes it to twist and bend. The twisting and bending increases the

force required to release the escape slide from the packboard assembly, which increases the handle force required to open the door. In some cases, the handle force increased to the point where the packboard did not release the escape slide.

The second cause of failure of the packboard assemblies to release the escape slides is the misalignment of the release mechanism during manufacturing of the packboard. The misalignment of the release mechanism increases the force required to pull the release pin. This increase in the force required to pull the release pin increases the handle force required to open the door, and in some cases, this has prevented the release of the escape slide from the packboard assembly.

Failure of the packboard assemblies could result in the emergency escape system not being available for emergency evacuation or the exit not being usable.

The FAA has reviewed and approved Boeing Service Bulletin 747-25-2807, dated December 7, 1989, which describes procedures for the inspection and modification of the packboard release shaft assembly; the modification involves replacing the existing shaft with a new shaft that will not bend or twist. The FAA has also reviewed and approved Boeing Alert Service Bulletin 747-25A2889, dated November 1, 1990, which describes procedures for the inspection and modification of the packboard release mechanism; the modification involves replacing two spacers and adjusting the release guide on the packboard so as to prevent and eliminate misalignment. The applicable packboards may be installed on airplanes line number 696 and subsequent.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection and modification of the escape slide system packboard in accordance with the service bulletins previously described.

There are approximately 74 Model 747 series airplanes of the affected design in the worldwide fleet. The following table lists the approximate number of U.S.-registered airplanes that would be affected by this AD, and gives an estimate of the manhours that it would take to accomplish each of the proposed inspection/modifications. The required modification parts are available at no charge.

AD paragraph	Number of airplanes	Manhours per airplane
A. Inspection	16	30
A.1. Modification	10	50
A.2. Modification	16	200

The average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $229,900.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 747 series airplanes, line number 696 and subsequent; equipped with evacuation system packboards and cover assemblies identified in the Boeing Service Bulletin 747-25-2807, dated November 7, 1989, and Boeing Service Bulletin 747-25A2889, dated November 1, 1990; certificated in any category. Compliance required as indicated, unless previously accomplished.

To provide satisfactory reliability of the evacuation system, accomplish the following:

A. For evacuation system packboard and cover assemblies identified in either Boeing Service Bulletin 747-25-2807, dated December 7, 1989, or Boeing Alert Service Bulletin 747-25A2889, dated November 1, 1990: Within the next 90 days after the effective date of this AD, inspect the evacuation system packboard and cover assemblies in accordance with part III, Accomplishment Instructions, Paragraph B., of Boeing Alert Service Bulletin 747-25A2889, dated November 1, 1990.

1. If the inspection reveals that the angle measured is 155 degrees or greater, prior to further flight, modify the packboard and cover assemblies in accordance with Boeing Alert Service Bulletin 747-25A2889, dated November 1, 1990, and Boeing Service Bulletin 747-25-2807, dated December 7, 1989, as applicable.

2. If the inspection reveals that the angle measured is less than 155 degrees, within the next 12 months after the effective date of this AD, modify the packboard and cover assemblies in accordance with Boeing Alert Service Bulletin 747-25A2889, dated November 1, 1990, and Boeing Service Bulletin 747-25-2807, dated December 7, 1989, as applicable.

B. 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, Avionics, or Operations Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

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

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

Issued in Renton, Washington, on March 22, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-8125 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-08-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes Equipped With Auxiliary Fuel Tanks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which would require inspection of the fuselage mounted auxiliary fuel tanks for delamination and/or cracking of the outer panels and repair, if necessary. This proposal is prompted by reports of cracking of a side panel of the auxiliary fuel tanks. This condition, if not corrected, could result in fuel leaking from the fuel tanks into the cargo compartment and creating a potential fire hazard.

DATES: Comments must be received no later than May 24, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-08-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. Stanton R. Wood, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2772. 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 regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-08-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

In a recent incident involving a Model 727 series airplane equipped with a Boeing manufactured auxiliary fuel tank installed in the fuselage cargo compartment, fuel leaked from the fuel tanks into the cargo compartment. The cause of the fuel leak was a cracked fuel tank panel that allowed pressurized air from the cabin to compress and tear the fuel bladder cell of the auxiliary fuel tank, resulting in fuel leaking from the bladder. This condition, if not corrected, could result in fuel leaking from the fuel tanks into the cargo compartment and creating a potential fire hazard.

The FAA has reviewed and approved Boeing Service Bulletin 727-28-0110, dated September 6, 1990, which describes procedures for the inspection of the auxiliary fuel tanks to detect disbonded panels and for the inspection of the auxiliary fuel tank support structure to detect cracks, wear, and corrosion. This service bulletin also describes procedures for the replacement, deactivation, and reactivation of the auxiliary fuel tanks.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection and repair, if necessary, or deactivation of the auxiliary fuel tanks, in accordance with the service bulletin previously described.

There are approximately 112 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 81 airplanes of U.S. registry would be affected by this AD, that it would take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $53,460.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 727 series airplanes, equipped with Boeing manufactured auxiliary fuel tanks installed in the lower cargo compartments, certificated in any category. Compliance required as indicated, unless previously accomplished.

To reduce the potential for fire in the cargo compartment due to fuel leaking from the auxiliary fuel tanks installed in the fuselage cargo compartments, accomplish the following:

A. Within the next 500 flight cycles after the effective date of this AD, accomplish one of the following:

1. Conduct an ultrasonic inspection for disbonding of the lower sidewall (curved) panels of the auxiliary fuel tanks in accordance with Part I of the Accomplishment Instructions in Boeing Service Bulletin 727-28-0110, dated September 6, 1990; or

2. Perform a leak check of the auxiliary fuel tanks in accordance with Part III of the Accomplishment Instruction in Boeing Service Bulletin 727-28-0110, dated September 6, 1990. If any fuel leakage is detected, prior to further flight repair, deactivate, or remove the auxiliary fuel tanks, in accordance with Part III of the Accomplishment Instructions in the service bulletin. Repeat the leak check prior to each flight.

B. Within the next 12,000 flight cycles after the effective date of this AD, accomplish the inspections of the auxiliary fuel tank and support structure in accordance with Part II of the Accomplishment Instructions in Boeing Service Bulletin 727-28-0110, dated September 6, 1990. Repeat this inspection at intervals not to exceed 12,000 flight cycles. Accomplishment of this inspection constitutes terminating action for the inspection/check requirements of paragraph A. of this AD.

C. Deactivation of the auxiliary fuel tank in accordance with Part V of the Accomplishment Instructions in Boeing Service Bulletin 727-28-0110, dated September 6, 1990, constitutes terminating action for the inspection requirements of this AD. If the auxiliary fuel tanks are reactivated, the inspections required by paragraphs A. and B. of this AD must be accomplished prior to exceeding the flight cycle thresholds required by those paragraphs.

Note: Fuel tanks deactivated, but installed in an airplane, accumulate the same number of flight cycles as the airplane.

D. Auxiliary fuel tanks currently not installed in an airplane must be inspected in accordance with Part II of the Accomplishment Instructions in Boeing Service Bulletin 727-28-0110, dated September 6, 1990, prior to installation in an airplane.

E. If a disbonded or cracked panel is detected during the inspections required by paragraphs A.1., B., C., or D. of this AD, accomplish one of the following prior to further flight.

1. Replace the panel in accordance with Part IV of the Accomplishment Instructions in Boeing Service Bulletin 727-28-0110, dated September 6, 1990; or

2. Deactivate the auxiliary fuel tank in accordance with Part V of the Accomplishment Instructions in Boeing Service Bulletin 727-28-0110, dated September 6, 1990; or

3. Remove the auxiliary fuel tank in accordance with the Boeing 727 Maintenance Manual Subject 53-20-31.

F. 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.

G. 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.

Issued in Renton, Washington, on March 25, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-8126 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 91-ANM-3]

Proposed Establishment of Transition Areas; Kemmerer, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish transition area to provide a controlled airspace environment for the new nondirectional radio beacon (NDB) approach to runway 34 at the Kemmerer Municipal Airport, Kemmerer, Wyoming. The transition area would segregate aircraft operating under visual flight rules (VFR) from those operating under instrument flight rules (IFR). The area would be depicted on aeronautical charts to provide references for pilots.

DATES: Comments must be received on or before May 9, 1991.

ADDRESSES: Send comments on the proposal to Bob Brown, ANM-535, Federal Aviation Administrtation, Docket No. 91-ANM-3, 1601 Lind Avenue SW., Renton, Washington 98055-4056, telephone (206) 227-2535.

The official docket may be examined at the same address.

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

FOR FURTHER INFORMATION CONTACT: Bob Brown, ANM-535, Federal Aviation Administrtation, Docket No. 91-ANM-3, 1601 Lind Avenue SW., Renton, Washington 98055-4056, telephone (206) 227-2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communciations should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 91-ANM-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

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

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide a controlled airspace transition area for instrument flight rules procedures for the new NDB approach to runway 34 at the Kemmerer Municipal Airport. The intent is to segregate aircraft operating under visual flight rules from those operating under instrument flight rules. The area would be depicted on appropriate aeronautical

charts so that pilots may circumnavigate the area or comply with instrument flight rules procedures. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

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

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

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

2. Section 71.181 is amended as follows:

Kemmerer, Wyoming, Transition Area (new)

That airspace extending upward from 700 feet above the surface within 9.2-mile radius of the Kemmerer Municipal Airport (Lat. 41°49'30"N, Long. 110°33'30"W), and within 3.5 miles each side of the 179° bearing from the Kemmerer NDB (Lat. 41°49'21"N, Long. 110°33'15"W), extending from the 9.2-mile radius area to 11.5 miles south of the NDB; and that airspace extending upward from 1,200 feet above the surface between Lat. 41°43'30"N, Long. 110°02'30"W; to 41°29'00"N, Long. 110°39'30"W; to Lat. 41°48'30"N, Long. 110°43'00"N; to the point of beginning excluding that airspace within the Fort Bridger, Wyoming, Transition Area.

Issued in Seattle, Washington, on March 20, 1991.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 91–8120 Filed 4–5–91; 8:45 am]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 100

[CGD–05–91–10]

Special Local Regulations for Marine Events; Virginia Beach Offshore Grand Prix; Atlantic Ocean, Rudee Inlet, Lake Rudee, Virginia Beach, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing special local regulations for the Virginia Beach Offshore Grand Prix to be held in the Atlantic Ocean off Virginia Beach on May 18, 1991. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

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

ADDRESSES: Comments should be mailed or hand carried to Commander (bb), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The comments will be available for inspection and copying at room 209 of this address. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested person are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 05–91–10) and the specific section of the proposal to which their comments apply. Reasons should be given for each comment. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Lieutenant Monica L. Lombardi, project attorney, Fifth Coast Guard District Legal Staff.

Background and Purpose

The Eastern Virginia Offshore Racing Association (EVORA) submitted an application to hold the Virginia Beach Offshore Grand Prix on May 18, 1991. The race will consist of approximately 100 powerboats, from 22 to 50 feet in length racing over a closed course off the beachfront at Virginia Beach, Virginia. As part of the application, the EVORA requested that the Coast Guard provide control of spectator and commercial traffic along the beach front and Rudee Inlet areas.

Discussion of Proposed Regulations

This proposal seeks to regulate the area surrounding the Virginia Beach Offshore Grand Prix. The race course is generally oval shaped, running parallel to the shoreline. The Rudee Inlet/Lake Rudee area will include the wet pits and dockage for patrol boats at the Riverhose boat docks, and the Owl Creek boat ramp which will serve as the put in area for the race participants. The Cape Henry Precautionary Area and the Dam Neck Danger Area are located to the north and south of the race course, respectively. While the race course does not encroach on either of these areas, the regulated area includes the southwest corner of the Cape Henry Precautionary Area and the northeast corner of the Dam Neck Danger Area. To provide for the safety of participants, spectators, and vessels transiting the area, the Coast Guard will restrict vessel movement in the regulated area and has established a temporary spectator anchorage for what is expected to be a large spectator fleet. Coast Guard patrol vessels will be positioned at Rudee Inlet to direct vessels to the temporary spectator anchorage. The sponsor will provide approximately 35 vessles, including 15

medical boats with paramedics on board to assist the Coast Guard and local government agencies in patrolling this event. All vessels will display Official Regatta Patrol signs and identity numbers. In order to publicize these regulations, the Coast Guard will publish details in the Local Notice to Mariners and the **Federal Register.** Representatives of the sponsors and members of the Coast Guard will be present in the vicinity of the race site to inform vessel operators of these regulations and other applicable laws.

Regulatory Evaluation

These proposed regulations are not considered major under Executive Order 12291 and not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for several hours, and the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small Entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Most small entities located in the proposed regulated area will be involved with providing services to the EVORA, the race participants, and race spectators. This should have a favorable impact, and only a few small businesses will not be involved. Since the impact of this proposal on non-participating small entities is expected to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b), that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of Information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism Assessment

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

Environmental Assessment

This rulemaking has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and been placed in the rulemaking docket, and is available for inspection or copying where indicated under **"ADDRESSES".**

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–T0510 is added to read as follows:

§ 100.35–T0510 Atlantic Ocean, Rudee Inlet, Lake Rudee, Virginia Beach, Virginia

(a) *Definitions*—(1) *Regulated area.* The waters of the Atlantic Ocean commencing at a point on the shoreline at latitude 36°54′23.0″ North, longitude 75°59′26.0″ West; thence east northeast to latitude 36°54′38″ North, longitude 75°56′55″ West; thence south southeast parallel to the Virginia Beach shoreline to latitude 36°49′06″ North, longitude 75°55′58″ West; thence west southwest to the shoreline at latitude 36°48′53″ North, longitude 75°57′58″ West, and the waters of Rudee Inlet and Lake Rudee including the Owl Creek Boat Ramp.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Hampton Roads.

(3) *Spectator Anchorage Area.* The waters off the Virginia seacoast bounded by a line connecting the following points:

Latitude	Longitude
36°51′23.0″ N	75°56′47.0″ W
36°51′27.0″ N	75°56′23.0″ W
36°50′26.0″ N	75°56′13.0″ W
36°50′23.0″ N	75°56′36.0″ W

(b) *Special Local Regulations.* (1) Except for participants in the Virginia Beach Offshore Grand Prix and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(3) Spectator vessels may anchor in the spectator anchorage area specified in paragraph (a)(3) of these regulations.

(4) The Coast Guard Patrol Commander may allow vessels to transit the regulated area whenever a race heat is not being run.

(5) Vessel operators are advised to remain clear of the advisory area during the effective periods of this regulation.

(c) *Effective periods:* The regulations are effective from 11:45 a.m. to 4 p.m., May 18, 1991. If inclement weather causes the postponement of the event, the regulations are effective from 11:45 a.m. to 4 p.m., May 19, 1991.

Dated: April 1, 1991.

P.A. Welling,

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

[FR Doc. 91–8164 Filed 4–5–91; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 64 and 68

[CC Docket No. 91–35; DA 91–415]

Operator Service Access and Pay Telephone Compensation

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time granted upon reconsideration.

SUMMARY: In this rule making proceeding concerning operator service access and pay telephone compensation (56 FR 11136, March 15, 1991), the Commissioin originally ordered that initial comments be filed by April 5, 1991, and reply comments by April 19, 1991. On March 20, 1991, the American Public Communications Council moved that these deadlines be exended to April 12 and April 26, 1991, respectively. The

Deputy Chief, Common Carrier Bureau, denied the motion on March 28, 1991. Upon reconsideration, the Chief, Common Carrier Bureau, granted the requested extension.

DATES: Comments must be filed on or before April 12, 1991, and replies must be filed on or before April 26, 1991.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kurt A. Schroeder, Enforcement Division, Common Carrier Bureau, (202) 632-4887.

SUPPLMENTARY INFORMATION:

Order

Adopted: April 1, 1991; Released: April 2, 1991.

In the matter of Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation.

By the Chief, Common Carrier Bureau:

1. On March 20, 1991, the American Public Communications Council filed a "Request for Extension of Time," moving that we extend the deadlines for filing initial comments and reply comments in the above-captioned proceeding to April 12 and April 26, 1991, respectively. That request was denied on March 28, 1991. Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket No. 91-35, Order, DA 91-365 (released March 28, 1991). Having reconsidered, we now extend the comment period.

2. Accordingly, *it is ordered*, pursuant to authority delegated in Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, that the Request for Extension of Time filed by the American Public Communications Council IS GRANTED. Initial comments in the above-captioned proceeding shall be filed by April 12, 1991, and reply comments shall be filed by April 26, 1991.

Federal Communications Commission.

Richard M. Firestone,

Chief, Common Carrier Bureau.

[FR Doc. 91-8200 Filed 4-5-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-80; RM-7672]

Radio Broadcasting Services; Derby Center, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Steele Communications Company, Inc., permittee of Station WMOO(FM), Channel 221A, Derby Center, Vermont, seeking substitution of Channel 221C3 for Channel 221A and modification of its authorization accordingly. Channel 221C3 can be allotted to Derby Center in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.4 kilometers (3.4 miles) northeast at the site specified in Station WMOO(FM)'s construction permit. The proposed allotment will have to be specially negotiated with Canada. The coordinates for the allotment of Channel 221C3 at Derby Center, Vermont, are North Latitude 44-58-23 and West Longitude 72-04-30. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for use of Channel 221C3 at Derby Center or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before March 28, 1991, and reply comments on or before June 12, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jonathan D. Blake, Esq., William H. Fitz, Esq., Covington & Burling, P.O. Box 7566, Washington, DC 20044 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-80, adopted March 25, 1991, and released April 3, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-8198 Filed 4-5-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-78 RM-7582]

Radio Broadcasting Services; Osceola, AR and Millington, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Diamond Broadcasting, Inc., permittee of Station KPYR(FM), Channel 251C, Osceola, Arkansas, seeking to change the community of license for Station KPYR(FM) from Osceola, Arkansas, to Millington, Tennessee, and to modify its license accordingly. Coordinates used for this proposal are 35-28-03 and 90-11-27.

DATES: Comments must be filed on or before May 28, 1991, and reply comments on or before June 12, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Stanley S. Neustadt and April McClain-Delaney, Esqs., Cohn and Marks, 1333 New Hampshire Avenue NW., Suite 600, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-78, adopted March 22, 1991, and released April 3, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy

Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–8196 Filed 4–5–91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91–79, RM–7641, RM–7648]

Radio Broadcasting Services; Pierce and Bloomington, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on petitions filed by Fred W. Hannel, d/b/a Trident Broadcasting of Texas, requesting that the Commission allot Channel 296A to Pierce, Texas, as that community's first local FM service; and by Tschirhart Broadcasting, Inc. seeking the substitution of Channel 295C3 for Channel 295A at Bloomington, Texas, and a modification of its construction permit to specify operation on the higher powered channel. See Supplemental Information, infra.

DATES: Comments must be filed on or before May 28, 1991, and reply comments on or before June 12, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Fred W. Hannel, Trident Broadcasting of Texas, 911 Edward Street, Henry, Illinois 61537 (Petitioner for Pierce); and Larry S. Tschirhart, President, Tschirhart Broadcasting, Inc., 7439, Alverstone Way, San Antonio, Texas 78250 (Petitioner for Bloomington).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–79, adopted March 22, 1991, and released April 3, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Channel 296A can be allotted to Pierce in compliance with the Commission's minimum distance separation requirements with a site restriction of 14 kilometers (8.7 miles) south of the community in order to avoid a short-spacing to the site specified in the construction permit for Station KJZS, Channel 295C, Conroe, Texas. The coordinates for Channel 296A, Pierce, Texas, are North Latitude 29–06–45 and West Longitude 96–11–35. Channel 295C3 can be allotted to Bloomington in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.1 kilometers (6.3 miles) southeast of the community to avoid a short-spacing to the proposed allotment of Channel 296A at Pierce, Texas. Mexican concurrence is required since Bloomington is located within 320 kilometers (199 miles) of the U.S.-Mexican border. The coordinates for Channel 295C3 at Bloomington are North Latitude 28–33–36, West Longitude 96–51–17.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–8197 Filed 4–5–91; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 56, No. 67
Monday, April 8, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking, Committee on Regulation, and Working Group on Model Rules; Public Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meetings of the Committee on Rulemaking, the Committee on Regulation and the Working Group on Model Rules of the Administrative Conference of the United States.

Committee on Rulemaking

Date: Wednesday, April 10, 1991.
Time: 4 p.m.
Location: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037 (Library, 5th Floor).
Agenda: The committee will meet to discuss: (1) Rulemaking at the National Labor Relations Board; and (2) the procedural rule exemption of the Administrative Procedure Act.
Contact: Kevin Jessar, 202–254–7020.

Committee on Regulation

Date: Friday, May 10, 1991.
Time: 9:15–11:45 a.m.
Location: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037 (Library, 5th Floor).
Agenda: The committee will meet for further discussion of the Conference's project concerning procedures for making determinations in antidumping and countervailing duty cases, based on a study by Professors John H. Jackson, University of Michigan Law School and William J. Davey, University of Illinois at Urbana-Champaign. The committee may also discuss the status of other pending projects.
Contact: David M. Pritzker, 202–254–7020

Working Group on Model Rules

Date: Friday, May 10, 1991.
Time: 12 noon
Location: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037 (Library, 5th Floor).
Agenda: The committee will meet as part of an ongoing effort to develop model rules of practice and procedure which can be used by Federal agencies in formal adjudications.
Contact: Gary Edles, 202–254–7020.

Attendance at the committee meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037. Telephone: 202–254–7020.

Dated: April 2, 1991.
Jeffrey S. Lubbers,
Research Director.
[FR Doc. 91–8115 Filed 4–5–91; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Office of Grants and Programs Systems, Cooperative State Research Service, announces the following meeting:
Name: National Agricultural Research and Extension Users Advisory Board.
Date: May 1–4, 1991.
Time: 8 a.m.–5 p.m., May 1, 1991; 8 a.m.–5 p.m., May 2, 1991; 8 a.m.–5 p.m., May 3, 1991; 8 a.m.–12 Noon, May 4, 1991.
Places: University of California, Davis, CA and Hilton Hotel, Sacramento, CA
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: The Board will review public and private research and extension programs that provide or will provide viable production alternatives. Emphasis will be on agricultural biotechnology and alternative farm methods. The Board will also be writing a report on FY 1993 research, teaching, and extension priorities.
Contact Person for Agenda and More Information: Marshall Tarkington, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; room 432–A, Administration Building, U.S. Department of Agriculture, Washington, DC 20250–2200; telephone (202) 447–3684.

Done in Washington, DC, this 29th day of March, 1991.
John Patrick Jordan,
Administrator.
[FR Doc. 91–8146 Filed 4–5–91; 8:45 am]
BILLING CODE 3410–22–M

Food and Nutrition Service

Special Supplemental Food Program for Women, Infants and Children; Poverty Income Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted poverty income guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Food Program for Women, Infants and Children (WIC Program). These poverty income guidelines are to be used in conjunction with the WIC Regulations, 7 CFR part 246.

EFFECTIVE DATE: July 1, 1991.

FOR FURTHER INFORMATION CONTACT: Paula Carney, Acting Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3730.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

The final action has been reviewed under Executive Order 12291 and has been determined to be not major. The Department does not anticipate that this notice will have an annual effect on the economy of $100 million or more. This action will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. Further, this action will not have 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.

Regulatory Flexibility Act

The action has been reviewed in accordance with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, the Administrator of the Food and Nutrition Service has determined that the action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

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

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112).

Description

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) requires the Secretary to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be eligible for the WIC Program only if they are members of families that satisfy the income standard prescribed for reduced-price school meals under section 9 of the National School Lunch Act (42 U.S.C. 1758). Under section 9, the income limit for reduced-price school meals is 185 percent of the Federal poverty income guidelines, as adjusted.

Section 9 also requires that these guidelines be revised annually to reflect changes in the Consumer Price Index. The annual revision for 1991 was published by the Department of Health and Human Services (DHHS) in the Federal Register for February 20, 1991 at 56 FR 6859. The guidelines published by DHHS are referred to as the poverty income guidelines.

The Department published final WIC regulations on February 13, 1985, at 50 FR 6108. Section 246.7(c)(1) specifies that State agencies may prescribe income guidelines either equaling the income guidelines established under section 9 of the National School Lunch Act for reduced-price school meals or identical to State or local guidelines for free or reduced-price health care. However, in conforming WIC income guidelines to State or local health care guidelines, the State cannot establish WIC guidelines which exceed the guidelines established under section 9 of the National School Lunch Act for reduced-price school meals, or which are less than 100 percent of the Federal poverty income guidelines.

Consistent with the method used to compute eligibility guidelines for reduced-price meals under the National School Lunch Program, the poverty income guidelines were multiplied by 1.85 and the results rounded upward to the next whole dollar.

At this time the Department is publishing the maximum and minimum WIC poverty income limits by household size for the period July 1, 1991 through June 30, 1992. The first table of this notice contains the income limits by household size for the 48 contiguous States, the District of Columbia and all Territories, including Guam. Because the poverty income guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

EFFECTIVE JULY 1, 1991—JUNE 30, 1992

Family size	Annual poverty income guidelines (PIG)	Annual FNS income guidelines for reduced-price lunches (185% of PIG)
48 States, District of Columbia, Puerto Rico, Virgin Islands, and Territories, including Guam:		
1	6,620	12,247
2	8,880	16,428
3	11,140	20,609
4	13,400	24,790

EFFECTIVE JULY 1, 1991—JUNE 30, 1992—Continued

Family size	Annual poverty income guidelines (PIG)	Annual FNS income guidelines for reduced-price lunches (185% of PIG)
5	15,660	28,971
6	17,920	33,152
7	20,180	37,333
8	22,440	41,514
For each additional family member add	2,260	4,181
Alaska:		
1	8,290	15,337
2	11,110	20,554
3	13,930	25,771
4	16,750	30,988
5	19,570	36,205
6	22,390	41,422
7	25,210	46,639
8	28,030	51,856
For each additional family member add	2,820	5,217
Hawai:		
1	7,610	14,079
2	10,210	18,869
3	12,810	23,699
4	15,410	28,509
5	18,010	33,319
6	20,610	38,129
7	23,210	42,939
8	25,810	47,749
For each additional family member add	2,600	4,810

Dated: April 1, 1991.

George A. Braley,

Associate Administrator.

[FR Doc. 91-8181 Filed 4-5-91; 8:45 am]

BILLING CODE 3410-30-M

Commodity Supplemental Food Program; Elderly Poverty Income Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announced adjusted poverty income guidelines to be used by State agencies in determining the income eligibility of elderly persons applying to participate in the Commodity Supplemental Food Program (CSFP). These poverty income guidelines are to be used in conjunction with the CSFP Regulations, 7 CFR part 247.

EFFECTIVE DATE: July 1, 1991.

FOR FURTHER INFORMATION CONTACT: Paula Carney, Acting Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756-3730.

SUPPLEMENTARY INFORMATION:

Classification

Executive order

This final action has been reviewed under Executive Order 12291 and has been determined to be not major. The Department does not anticipate that this notice will have an annual effect on the economy of $100 million or more. This action will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. Further, this action will not have 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.

Regulatory Flexibility Act

The action has been reviewed in accordance with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, the Administrator of the Food and Nutrition Service has determined that the action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

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

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.565 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112).

Description

On December 23, 1985 the President signed the Food Security Act of 1985 (Pub. L. 99–198). This legislation amends section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to require that the Department establish procedures allowing agencies administering the CSFP to serve elderly persons if such service can be provided without reducing service levels for women, infants, and children. The law also mandates establishment of eligibility requirements for elderly participation. Prior to enactment of Public Law 99–198, elderly participation was restricted by law to three designated pilot projects which served the elderly in accordance with agreements with the Department.

In order to implement the CSFP mandates of Public Law 99–198, the Department published interim rules on September 7, 1986 at 51 FR 32895 and a final rule on February 18, 1988 at 53 FR 4831. These regulations defined "elderly persons" as those who are 60 years of age or older. The final rule further stipulated that elderly persons certified on or after September 17, 1986 must have "household income at or below 130 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services" (7 CFR 247.7(a)(3)).

These poverty income guidelines are revised annually to reflect changes in the Consumer Price Index. The revision for 1991 was published by the Department of Health and Human Services (DHHS) in the **Federal Register** for February 20, 1991 at 56 FR 6859. At this time the Department is publishing the income limit of 130 percent of the poverty income guidelines by household size to be used for elderly certification in the CSFP for the period July 1, 1991—June 30, 1992.

The poverty income guidelines were multiplied by 1.30 and the results rounded up to the next whole dollar. The first table in this notice contains the income limits by household size for the 48 contiguous States, the District of Columbia, and all the Territories including Guam. Because the poverty income guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

EFFECTIVE JULY 1, 1991–JUNE 30, 1992

Family size	Annual FNS poverty income guidelines for elderly in CSFP (130% of PIG)
48 States, District of Columbia, Puerto Rico, Virgin Islands, and Territories, including Guam:	
1	8,606
2	11,544
3	14,482
4	17,420
5	20,358
6	23,296
7	26,234
8	29,172
For each additional family member add	2,938
Alaska:	
1	10,777
2	14,443

EFFECTIVE JULY 1, 1991–JUNE 30, 1992—Continued

Family size	Annual FNS poverty income guidelines for elderly in CSFP (130% of PIG)
3	18,109
4	21,775
5	25,441
6	29,107
7	32,773
8	36,439
For each additional family member add	3,666
Hawaii:	
1	9,893
2	13,273
3	16,653
4	20,033
5	23,413
6	26,793
7	30,173
8	33,553
For each additional family member add	3,380

Dated: April 1, 1991.

George A. Braley,

Associate Administrator.

[FR Doc. 91-8182 Filed 4-5-91; 8:45 am]

BILLING CODE 3410-30-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a subcommittee meeting of the Colorado Advisory Committee to the Commission will be held from 1 p.m. until 3 p.m. on Tuesday, April 23, 1991, at the Metropolitan State College, Student Union Building, 955 Lawrence Street, Denver, CO 80217–3361. The purpose of this meeting is to discuss issues related to the employment of minorities and women in construction of the new Denver airport.

Persons desiring additional information should contact Committee Chairperson, Gwen Thomas, or William F. Muldrow, Director of the Rocky Mountain Regional Division (303) 844–6716 (TDD 303–844–6720). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 2, 1991.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91-8169 Filed 4-5-91; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 910376-1076]

Foreign Availability Determination: Single-Disk Certifiers

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of negative determination.

SUMMARY: On March 4, 1991, consistent with the provisions of Section 791 of the Export Administration Regulations (EAR), the Department of Commerce determined that foreign availability of Single-Disk Certifiers controlled under ECCN 1358A of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1), does not exist to controlled countries. As a result of this negative determination, the Department of Commerce will not amend the existing export controls on these items.

FOR FURTHER INFORMATION CONTACT: Steven C. Goldman, Director, Office of Foreign Availability, room SB-097, Department of Commerce, Washington, DC 20230; Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION:

Background

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

Part 791 of the EAR (15 CFR 730 *et seq.*) implements and establishes the procedures and criteria for determining the foreign availability of goods and technology whose export is controlled for national security reasons. The Secretary of Commerce or his designee determines whether foreign availability exists.

With limited exceptions, the Department of Commerce may not maintain national security controls on exports of an item to affected countries if the Secretary or his designee determines that items of comparable quality are available in fact to such countries from a foreign source in quantities sufficient to render the controls ineffective.

On November 2, 1990, the Office of Foreign Availability (OFA) initiated a foreign availability assessment of Single-Disk Certifiers to controlled countries. These items are controlled under ECCN 1358A of the CCL. On February 15, 1991, the Department published a notice of the initiation of this assessment in the **Federal Register** (56 FR 6371).

OFA provided its assessment and recommendation to the Deputy Assistant Secretary for Export Administration. The Deputy Assistant Secretary considered the assessment and other relevant information and determined that foreign availability does not exist to controlled countries within the meaning of Section 791 of the EAR for Single-Disk Certifiers. The Department provided all interested government agencies, including the Departments of State and Defense, with the opportunity to review and comment on the assessment and determination. As a result of this negative determination, the Department of Commerce will not amend the existing export controls of these items.

If OFA receives new evidence concerning this foreign availability determination, OFA may reevaluate its assessment. Inquiries concerning the scope of this assessment should be sent to the Director of the Office of Foreign Availability at the above address.

Dated: April 2, 1991.

Michael P. Galvin,

Assistant Secretary for Export Administration.

[FR Doc. 91-8103 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Publication of quarterly update of foreign government subsidies on articles of quota cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: April 1, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Paul J. McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for several of the countries for which subsidies were identified in our last quarterly update to the annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: April 2, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

APPENDIX.—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross [1] subsidy (cents per pound)	Net [2] subsidy (cents per pound)
Belgium	European Community (EC) Restitution Payments	48.5/	48.5/
Canada	Export Assistance on Certain Types of Cheese	30.2/	30.2/
Denmark	EC Restitution Payments	61.8/	61.8/
Finland	Export Subsidy	129.6/	129.6/
France	EC Restitution Payments	62.4/	62.4/
Greece	EC Restitution Payments	37.9/	37.9/
Ireland	EC Restitution Payments	54.9/	54.9/
Italy	EC Restitution Payments	78.6/	78.6/
Luxembourg	EC Restitution Payments	48.5/	48.5/
Netherlands	EC Restitution Payments	48.5/	48.5/
Norway	Indirect (Milk) Subsidy	20.9/	20.9/
	Consumer Subsidy	46.3/	46.3/
		67.2/	67.2/
Portugal	EC Restitution Payments	46.2/	46.2/
Spain	EC Restitution Payments	51.7/	51.7/
Switzerland	Deficiency Payments	115.7/	115.7/
U.K.	EC Restitution Payments	48.7/	48.7/
W. Germany	EC Restitution Payments	58.0/	58.0/

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 91-8189 Filed 4-5-91; 8:45 am]
BILLING CODE 3510-DS-M

[C-307-702]

Certain Electrical Conductor Aluminum Redraw Rod From Venezuela; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On January 8, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain electrical conductor aluminum redraw rod from Venezuela. We have now completed that review and determine that there are no known unliquidated entries during the period August 17, 1988 through December 31, 1988. However, because of a program-wide change, we are changing the rate of cash deposit of estimated countervailing duties to 5.50 percent *ad valorem*.

EFFECTIVE DATE: April 8, 1991.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 679) the preliminary results of its administrative review of the countervailing duty order on certain electrical conductor aluminum redraw rod from Venezuela (53 FR 31904; August 22, 1988). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of certain electrical conductor aluminum redraw rod (redraw rod) from Venezuela, which is wrought rod of aluminum electrically conductive and containing not less than 99 percent of aluminum by weight. During the review period, such merchandise was classifiable under item numbers 618.1520 and 618.1540 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under item numbers 7604.10.3010, 7604.10.3050, 7604.29.3010, 7604.29.3050, 7605.11.0030 and 7605.21.0030 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period August 17, 1988 through December 31, 1988 and nine programs: (1) Exchange of Export Earnings under the Multiple Exchange Rate System; (2) Export Bond Program; (3) Short-term FINEXPO Export Financing; (4) Preferential Pricing of Inputs Used to Produce Exports; (5) Interest-Free Loan from a Government-Owned Aluminum Supplier; (6) Other Government-Provided Loans; (7) Loan Guarantee; (8) Preferential Tax Incentives; and (9) the Basic Ingredient Export Program (PIBE).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the Government of Venezuela and the petitioner, Southwire Company.

Comment 1: The petitioner, in citing numerous occasions where the Department verified program-wide changes, argues that Department policy and practice require that program-wide changes be verified in order to take them into account in establishing the countervailing duty cash deposit rate. The petitioner contends that, even though the change in benefits from the Export Bond Program to five percent was the result of an official decree, there is no certainty without verification that the redraw rod producers/exporters were not receiving benefits greater than five percent after the decree was enacted.

In contrast, the respondent argues that there is no requirement that the Department conduct an on-site verification before taking into account program-wide changes. The respondent maintains that the Department's practice, as stated in § 355.50 of the Department's proposed regulations (54 FR 23385; May 31, 1989), includes only two requirements: (1) That the change

occur before a preliminary results of review, and (2) that the Department "is able to measure the change in the amount of countervailable subsidies provided under the program in question."

With respect to the Export Bond Program, the change is the result of an official act. By taking into account this program-wide change, the Department is being consistent with its practice and policy of recognizing program-wide changes in administrative reviews in which verification was not conducted. In Final Results of Countervailing Duty Administrative Review; Litharge, Red Lead and Lead Stabilizers from Mexico (51 FR 64501; February 24, 1986), the Department stated that "there is no statutory requirement that information used to establish the rate of cash deposit be verified."

Department's Position: We agree with the respondent. There is no requirement that the Department verify program-wide changes in order to take them into account. Decree 1061 of August 8, 1990, which reduced the benefit from the Export Bond Program, was an official decree published in Venezuela's Gaceta Oficial. On-site verification of a public document would be superfluous.

Comment 2: The respondent contends that preferential pricing of inputs has been eliminated because the price for primary aluminum established by the Government of Venezuela through its agency, Corporacion Venezulana de Guayana (CVG), is based on market prices and is the same for inputs used in the production of domestic or export goods. Therefore, there can be no benefit from this program, and the Department should adjust the cash deposit rate accordingly.

Department's Position: We disagree. In Final Affirmative Countervailing Duty Determination; Certain Electrical Conductor Aluminum Redraw Rod from Venezuela (Final Determination) (53 FR 24763; June 30, 1988), the Department found that the pricing formula described in the questionnaire response was not, in fact, used to determine the domestic price of primary aluminum. Moreover, we found at verification that there was a different price, which included certain discounts for primary aluminum, incorporated in products for export. Since there were no shipments of redraw rod to the United States during the current administrative review period, we are unable to confirm merely on the basis of a revised pricing formula that preferential pricing of inputs has been eliminated. Without having examined the application and impact of the current pricing formula, we have no basis for adjusting the cash deposit rate.

Comment 3: The respondent claims that companies purchasing primary aluminum are now prohibited by CVG from paying late, or on a delayed basis, without assessment of a late payment fee. Therefore, a program for interest-free loans from a government-owned aluminum supplier has been completely terminated, and the Department should adjust the cash deposit rate accordingly.

Department's Position: In the Final Determination, the Department used best information available to determine that there was a benefit provided to a specific enterprise. Since there were no shipments of redraw rod to the United States during the current review period, we are unable to determine if late payment fees are consistent with commercial considerations or provide a benefit through a preferential interest rate.

Comment 4: The respondent argues that the short-term FINEXPO financing program has, like the Export Bond Program, undergone a significant program-wide change and the Department should recognize this change. The recent FINEXPO program provides only variable interest rate loans tied to the discount rate of the Central Bank of Venezuela as opposed to the fixed-rate five percent loan that was provided on loans found countervailable in the final determination. Furthermore, the respondent maintains that no producer or exporter of redraw rod received benefits under short-term FINEXPO financing during the review period.

Department's Position: We agree that there was a program-wide change in the short-term FINEXPO financing program. However, the new interest rates are still preferential, and we have no basis to measure the change in the benefit from this program. Section 355.50 of the Department's proposed regulations states that, in order to take into account a program-wide change in establishing the estimated countervailing duty cash deposit rate, a change needs to be measurable as well as program-wide. Furthermore, since there were no shipments of redraw rod to the United States during the current review period, the non-use of this program during the review period does not provide a basis for assuming that it would not be used if shipments were resumed.

Comment 5: The respondent argues that the Department should acknowledge that the multiple exchange rate system, preferential tax incentives, and the basic ingredient export program (PIBE) have been terminated.

Department's Position: We agree. In the Final Determination, we found that the benefit to exporters of redraw rod under the multiple exchange rate system had been eliminated. The questionnaire response for the current review period also indicates that Decree 76, published March 13, 1989, eliminated the PIBE program. With respect to preferential tax incentives under Decrees 1775 and 1776, the questionnaire response indicates that these programs were eliminated and replaced by Decree 2707, which provides comparable benefits. Despite the respondent's claim that Decree 2707 provides a tax rebate on capital goods to a wide range of industries, and thus is not countervailable, the Department does not make determinations concerning the countervailability of programs until we can examine their use. We will examine Decree 2707 in subsequent reviews to determine if it provides countervailable benefits to producers or exporters of redraw rod.

Comment 6: The respondent contends that two programs identified in the Final Determination, Other Government Loans and Government Loan Guarantees, should be determined not to exist. The respondent maintains that, in the original investigation, the Department did not find evidence of such loans or loan guarantees in either its preliminary or final determination.

Department's Position: We disagree. In addressing these programs in the Final Determination, the Department determined that these programs were not used and chose not to make a determination that they did not exist. We have no basis for changing that determination.

Final Results of Review

As a result of our review, we determine that there are no known unliquidated entries of the subject merchandise exported to the United States from the period August 17, 1988 through December 31, 1988. After reviewing all of the comments received, we recommend changing the rate of cash deposit of estimated countervailing duties to 5.50 percent *ad valorem*

Because of a program-wide change in the benefit from the Export Bond Program, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 5.50 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of adminsitrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 165(a)(1)) and 19 CFR 355.22.

Dated: April 1, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-8190 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-406]

Fabricated Automotive Glass From Mexico; Final Results of Changed Circumstances Countervailing Duty Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances countervailing duty administrative review and revocation of countervailing duty order.

SUMMARY: On August 10, 1990, the Department of Commerce published the initiation and preliminary results of its changed circumstances countervailing duty administrative review and intent to revoke the countervailing duty order on fabricated automotive glass from Mexico. We have now completed that review and determine to revoke the countervailing duty order effective August 24, 1986.

EFFECTIVE DATE: April 8, 1991.

FOR FURTHER INFORMATION CONTACT: Christopher Beach or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 32672) the preliminary results of its changed circumstances countervailing duty administrative review and intent to revoke the countervailing duty order on fabricated automotive glass from Mexico (50 FR 1906; January 14, 1985). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of Mexican fabricated automotive glass, including tempered and laminated automotive glass. Through 1988, such merchandise was classifiable under items 544.3100 and 544.4120 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under item numbers 7007.11.00, 7007.19.00, 7007.21.10 and 7007.21.50 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results and intent to revoke. We received written comments from the petitioner, PPG Industries, Inc. (PPG), and the respondents, Vitro Flex, S.A. and CRINAMEX, S.A. At the petitioner's request we held a hearing on October 11, 1990.

Comment 1: Petitioner disagrees with the Department's determination that, under Article VI of the General Agreement on Tariffs and Trade (GATT) and 19 U.S.C. 1303(a)(2), the United States does not have the authority to assess countervailing duties on entries of fabricated automotive glass from Mexico made on or after August 24, 1986, absent an injury test. Petitioner states that the GATT requires no such obligation of the United States and that the U.S. countervailing duty law makes no provision for an injury test under these circumstances.

According to petitioner, the Department misinterprets Article VI of the GATT, which states that no signatory shall "levy" a countervailing duty on imports from another signatory without a determination of injury. The petitioner states that there exists no support for the Department's interpretation of "levy" as creating a retroactive obligation to provide an injury test where the countervailing duty order predates the creation of the obligation. Nor is there ground in the statute or in the legislative history to explicitly equate the term "impose" in 19 U.S.C. 1303(a)(2) with "levy" in Article VI of the GATT, as stated by the Department in Certain Fasteners from India; Final Results of Administrative Review and Partial Revocation of Countervailing Duty Order (47 FR 44129; October 6, 1982) (Indian Fasteners).

Furthermore, petitioner contends there is no language in the GATT, including Articles VI, XVI and XXIII, that would even imply that an injury test is required every time a country that is subject to an order becomes a GATT member. On the contrary, other GATT documents, such as the Protocol for Provisional Application, appear to contradict the Department's interpretation that Article VI of the GATT requires retroactive application of the injury test on existing orders. Petitioner maintains that the authority for imposing countervailing duties on imports becomes fixed "as a matter of law" by the original finding of subsidization.

Respondents agree with the Department's interpretation of GATT and statutory terminology and its determination that both the GATT (Article VI) and the U.S. countervailing duty law (19 U.S.C. 1303(a)(2)) prohibit the assessment of countervailing duties on post-GATT accession entries of automotive glass from Mexico, absent an injury test. Respondents contend that the Department's determination is consistent with the Department's administration of the countervailing duty laws whereby the initial investigation and issuance of an order establishing suspension of liquidation and a duty deposit rate is entirely separate from the assessment of countervailing duties subsequent to an administrative review. Furthermore, it is well established that the liability for countervailing duties arises upon entry of merchandise into the United States and not merely at the time of issuance of the countervailing order.

Respondents further note that a review of the legislative history of 19 U.S.C. 1303(a)(2) clearly shows that the purpose of amending the Tariff Act in 1974 to provide for an injury test was to ensure that the U.S. countervailing duty law complied with the GATT obligations assumed by the United States. Congress intended that duty-free items, not previously covered under the countervailing duty law, would become subject to an injury test prior to the imposition or levying of countervailing duties. Therefore, both section 303(a)(2) of the Tariff Act and Article VI of the GATT require a finding of injury prior to the imposition of countervailing duties on duty-free items when the international obligations of the United States require it. Thus, given that fabricated automotive glass is duty-free, that Mexico became a contracting party to the GATT on August 24, 1986 and that the GATT is considered an international obligation within the meaning of section 303(a)(2), all entries of fabricated automotive glass entered on or after August 24, 1986 are entitled to an injury test under U.S. law prior to the assessment of countervailing duties.

Department's Position: We agree with respondents that duty-free imports of Mexican fabricated automotive glass that entered into the customs territory of the United States on or after August 24, 1986, the date that Mexico acceded to

the GATT, are entitled to an injury determination prior to the levy of countervailing duties. This conclusion follows from an analysis of section 303 of the Tariff Act of 1930 and Article VI of the GATT, as well as the legislative history underlying the amendments to our countervailing duty law in 1974.

In 1974, Congress undertook a major overhaul of the existing countervailing duty law. In conjunction with other changes in the Trade Act of 1974, Congress decided to include duty-free merchandise, for the first time, within the framework of the countervailing duty law. See S. Rep. No. 93–1298, 93rd Cong. 2nd Sess. at 4 (1974). Consistent with the United States' obligations under the GATT, Congress provided that:

> (2) In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there is an affirmative determination by the Commission under subsection (b)(1); except that such a determination shall not be required unless a determination of injury is reguired by the international obligations of the United States.

19 U.S.C. 1303(a)(2) (1974).

Because the statute does not define the term "impose," it is appropriate to resort to the legislative history in order to clarify the meaning of this term as it appeared in section 303, as amended by the Trade Act of 1974. In implementing its amendment to section 303, Congress advised that:

> (T)he inclusion of an injury standard is appropriate in light of the general countervailing duty rule in Article VI of the GATT which requires a finding of injury before such duties may be levied on subsidized product imports. Section 303 of the 1930 Tariff Act does not provide for an injury test. However, because the present U.S. countervailing duty law, which only applies to dutiable items, predates the GATT, it is within the permitted exceptions to the GATT under the so-called "grandfather clause." However, the extension of such law to nondutiable items is not covered by any such exception and so, the nondutiable items should be subject to an injury test.

S. Rep. No. 93–1298, 93rd Cong., 2nd Sess. at 185 (1974) (emphasis added).

Given the statutory language and legislative history governing section 303 of the Act, as amended in 1974, it is clear that Congress intended for the United States to meet its international obligations as a GATT signatory by providing an injury test on duty-free imports from other GATT signatories before levying countervailing duties.

While it is clear from the 1974 statute and legislative history that Congress intended to provide an injury test on duty-free imports by GATT signatories, it appears that Congress neither anticipated, nor addressed, the present situation where a country becomes a GATT signatory after a countervailing duty order is issued on duty-free merchandise. As a result, the Department has been forced to address the "gap" in the 1974 law pertaining to the levy of countervailing duties on pre-existing orders covering duty-free imports of GATT signatories.

The issue is easily resolved, however, by a review of the obligations that the United States incurred as a GATT signatory. Article VI(6)(a) of the GATT addresses the matter at hand by requiring that:

> No contracting party shall levy an anti-dumping or countervailing duty on the importation of any product of the territory of another contracting party unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry.

Article VI(6)(a) (1986).

Although Article VI of the GATT does not define the term "levy," the GATT Subsidies Code, adopted in 1979, defines the term as "the definitive or final legal assessment or collection of a duty or tax." GATT Subsidies Code, art. 4, n.14. Because the GATT Subsidies Code is an interpretive agreement of the GATT, the term "levy," as it appears in Article VI of the GATT, has the identical meaning as the term "levy" in article 4 of the GATT Subsidies Code. This conclusion is consistent with article 31 of the Vienna Convention on the Law of Treaties which provides that "(a)ny subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions . . . shall be taken into account when interpreting the terms of the treaty." See Vienna Conv. art. 31, para. 3(a).

Thus, based upon Congress' clear direction that section 303, as it pertains to duty-free merchadise, should be consistent with the GATT, our action here is consistent with Congressional intent and a proper exercise of the Department's authority. See *Matsushita Electric Industrial Co. Ltd.* v. *United States*, 529 F. Supp. 670 (CIT 1981), and *United States Steel* v. *United States*, 618 F. Supp. 496 (CIT 1985), appeal dismissed as moot, 792 F. 2nd 1101.

To argue as the petitioner has, that any obligation to make an injury determination terminates with the issuance of an order and that application of the injury requirements of Article VI to this case is a retroactive application of treaty obligations, overstates the significance of an order and misinterprets the nature of such obligations. Although an injury determination (where required) is typically made prior to the issuance of a countervailing duty order, the one-time issuance of an order does not vitiate the continuing nature of the Article VI obligation, where duty-free merchandise from a GATT member country is concerned. The GATT has always recognized that a contracting party has a continuing obligation to review and update the original determination that resulted in the countervailing duty order; the issuance of the order does not establish the basis for assessing duties indefinitely. Because Congress intended to codify GATT Article VI requirements into section 303(a)(2), Congress necessarily codified into that statutory provision the GATT's continuing obligation to grant an injury test prior to levying countervailing duties on duty-free imports from another GATT signatory.

Thus, absent an affirmative injury determination, the Department does not have the authority to collect countervailing duties pursuant to 19 U.S.C. 1303(a)(2) and is required to revoke the outstanding countervailing duty order. See Lime from Mexico, Indian Fasteners, and Carbon Steel Wire Rod from Trinidad & Tobago; Preliminary Results of Administrative Review and Tentative Determination to Revoke Countervailing Duty Order, 50 FR 19562 (1985).

Comment 2: Petitioner argues that in the absence of a provision for an injury test for products covered by an existing countervailing duty order, the Department has relied on an inadequate surrogate, a section 332 investigation. Furthermore, petitioner contends that the Department has "Usurped" the International Trade Commission's (ITC) authority to make an injury determination based on the results of such an investigation.

Petitioner maintains that the countervailing duty law does not grant the Department the power to make injury determinations nor was it the intent of Congress that such authority be granted to the Department. The countervailing duty laws did not provide for, and the Congress did not intend that, the Department perform an injury test after an order had been issued without a previous injury determination. The provision governing administrative reviews of countervailing duty orders provides only for the review by the Department of the amount of the subsidy found.

Department's Position: We disagree with the petitioner. A section 332 investigation is an adequate surrogate in the absence of a specific statutory injury provision applicable to the instant case. While Congress has not address the anomalous situation which the Department faces in this and other Mexican cases covering duty-free merchandise, it has stated its intent to provide an injury test for duty-free goods entered by GATT signatories, as demonstrated in the legislative history of the Trade Act of 1974. (See, S. Rep. No. 93–1298, 93rd Cong. 2d sess. at 185.) Because we are faced with a circumstance that constitutes a "gap" in the law, the current procedure is reasonable in light of the well established principle of administrative law that where the intent and object of a statute are manifest, agency action consistent with the intent is a proper exercise of an agency's authority. (See, *Matsushita Electric Industrial Co. Ltd.*, v. *United States*, 529 F. Supp. 670 (Ct. Int'l Trade 1981), and *United States Steel* v. *United States*, 618 F. Supp. 496 (Ct. Int'l Trade 1985), appeal dismissed as moot, 792 F. 2d 1101.

Likewise, given the gap in the existing law, the Department has the authority to make an injury determination that a U.S. industry will not be materially injured, or threatened with material injury, if the countervailing duty order is revoked under the circumstances presented in this case. Since signing the GATT in 1948, the United States has consistently taken the position that it was required under international law to fulfill the obligations of that agreement. The fact that Congress has authorized the President to enter into several rounds of trade negotiations under the auspices of the GATT also supports the view that the GATT was to be enforced as domestic law. The legislative history of section 303(a)(2) clearly indicates that the section was enacted to fulfill U.S. obligations under article VI to provide an injury determination on duty-free merchandise. Based on the change in Mexico's status as a GATT signatory, we have incurred the obligations described above and have stated that we lack the authority to assess countervailing duties, absent an affirmative injury determination.

To the extent possible, the U.S. government has attempted to utilize procedures here that are consistent with the bifurcated system currently in place with respect to countervailing duty proceedings. Consequently, the United States Trade Representative (USTR) requested the ITC to perform its routine function of soliciting, analyzing, and verifying information regarding the domestic industry. Furthermore, this is not the first time that the Department has relied heavily on the ITC's expertise. In the past, we have relied on the ITC's expertise in defining like product and industry in making our standing decisions. (See Final Determination of Sales at Less than Fair Value: Granular Polytetrafluoroethylene Resin from Italy (PTFE), 53 FR 26096, 26098 (1988) (the Department relied on the ITC's finding that filled and unfilled PTFE resin constitute one, not two, like products in establishing that petitioner (a producer of only unfilled resin) had standing to bring the case on both resins).

Finally, given the gap in the statute and the diverse positions advanced by the parties, the Department adopted the most reasonable approach it could by utilizing the section 332 procedure. Absent this procedure, the Department would have had to revoke the order on August 24, 1986, without providing the domestic industry with the opportunity for an injury test. See Indian Fasteners.

Comment 3: Petitioner maintains that revocation may occur only after the completion of an administrative review of an existing order under 19 U.S.C. 1675. Further, where revocation occurs pursuant to a changed circumstances review under 19 U.S.C. 1675(b), petitioner contends that the legislative history indicates that Congress intended "changed circumstances" to mean only the cessation of subsidization. Because there has been no claim that revocation is based on the cessation of subsidization, revocation based on the grounds cited by the Department would be contrary to the intent of Congress in creating the changed circumstances review under 19 U.S.C. 1675(b).

Respondents counter that the Department and the Court of International Trade (CIT) have not accepted petitioner's position that the Department may only initiate a changed circumstances review when subsidization has ceased, nor has the CIT precisely defined the conditions under which a changed circumstances review may be initiated. In *Cementos Anahuac del Golfo, S.A.* v. *United States*, 12 CIT ____, 689 F. Supp 1191 (1988), the CIT did not indicate that a changed circumstances review would be limited to cessation of subsidization but indicates that other factors, such as a change in Mexico's status, could be sufficient grounds for a changed circumstances review.

Department's Position: We agree with respondent that changed circumstances reviews under section 751(b) of the Tariff Act are not limited to situations where subsidization has ceased. In fact, the statute and legislative history are silent regarding what changed circumstances must exist to warrant review under this section. Thus, Congress has left the definition of "changed circumstances" to the discretion of the Department. See S. Rep. No. 249, 96th Cong., 1st Sess. 80; H.R. Rep. No. 317, 96th Cong., 1st Sess. 71–72 (1979).

Our regulations do not limit revocations of countervailing duty orders to situations under 19 CFR 355.25(a) where subsidies have been eliminated. Rather, the Department can revoke an order or terminate a suspended investigation in instances where the order or suspended investigation is no longer of interest to interested parties. See 19 CFR 355.25(d)(1)(i); Canned Tuna from the Philippines; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order, 58 FR 9788 (1988). In addition, the Department can revoke an order when it discovers "other changed circumstances" sufficient to warrant revocation. See 19 CFR 355.25(d)(1)(ii); Lime from Mexico; Final Results and Revocation of Countervailing Duty Order, 54 FR 49324, 49328 (1989) (finding that the Department's lack of authority to assess countervailing duties without an injury determination and the absence of an affirmative determination of injury are changed circumstances sufficient to warrant revocation). Thus, unlike revocations conducted pursuant to 19 CFR 355.25(a), the Department is by no means required under the current law to determine that subsidies have been eliminated where other changed circumstances sufficient to warrant revocation exist.

Comment 4: Petitioner claims that Congress has repeatedly made clear its intention that the United States give greater rights under its trade laws to countries that promptly undertake certain obligations towards the United States. Petitioner asserts that "(T)o allow Mexico to demand an injury determination now on outstanding CVD orders * * * would provide Mexico with greater rights than those accorded countries which have long been signatories to the GATT and the GATT Subsidies Code."

Furthermore, petitioner points out that when the United States signed the GATT Subsidies Code in 1979, the United States sought to encourage other countries to sign the Code by creating a mechanism by which these countries could obtain injury determinations on

pre-existing countervailing duty orders. Thus, under section 104(b) of the Trade Agreements Act of 1979, GATT Subsidies Code signatories could requests an injury determination by the ITC for all outstanding countervailing duty orders in existence on January 1, 1980. There were two important restrictions, however; countries had to sign the Code and make injury determination requests by December 31, 1982, and the orders must remain in place until the injury determination was made with an effective date based on the date of the injury determination request.

Thus, according to petitioner, Mexico (only a GATT member since 1986) is receiving greater rights under section 303 than the GATT Subsidies Code signatories do under section 104(b) (including revocation reaching back to the date of Mexico's accession to the GATT), despite the non-existence of any statutory authorization for such a test. Petitioner cites Fresh Cut Roses from Israel, 51 FR 44498 (1986) as a case analogous to the present case and indicative of Congress' intention not to give Israel, a late signatory to the GATT Subsidies Code, greater rights than earlier signatories.

Petitioner concludes that if Congress intended an injury determination to occur retroactively on pre-existing countervailing duty orders covering merchandise from signatory countries, then Congress would not have imposed a time limitation for making requests to the ITC under section 104(b). No country that was a signatory to the GATT in 1979 could now bring a request under section 104(b) for an injury determination on an existing order because the authority to request an injury test under section 104(b) expired on January 1, 1983. Thus, to allow Mexico to receive an injury determination and revocation under section 303(a)(2) provides Mexico with greater rights than those accorded countries which have long been signatories to the GATT and the GATT Subsidies Code.

Department's Position: We disagree with petitioner. Petitioner has confused the provisions of section 104(b) of the Trade Agreements Act of 1979, which provides an injury test on dutiable imports from countries which became Subsidies Code signatories within a certain period, with the provisions of section 303(a)(2) of the Tariff Act, added in 1974, which mandate an injury test for duty-free merchandise as long as one is required by the International obligations of the United States. In section 104(b), Congress provided a limited "window of opportunity" for requesting an injury determination with regard to pre-existing orders on dutiable merchandise, primarily to provide an incentive for countries to become signatories to the GATT Subsidies Code. No such conditions on limitations were attached to the 1974 amendment of section 303 extending the countervailing duty law to cover duty-free merchandise. Section 303(a)(2) simply mandated that an injury test is required when the United States has international obligations with a particular country, a condition that was satisfied on August 24, 1986, when Mexico acceded to the GATT. Thereafter, any assessment of countervailing duties on fabricated automotive glass from Mexico without an affirmative injury determination would have violated both U.S. law and the GATT.

Petitioner also ignores the fact that, in 1980, GATT Subsidies Code signatories already were eligible to receive an injury test on duty-free merchandise under section 303 because they already were GATT contracting parties. Thus, Mexico is not receiving any greater rights with respect to duty-free merchandise than those rights afforded other GATT signatories.

Finally, petitioner's reliance on Fresh Cut Roses from Israel, 51 FR 44498 (1986) is misplaced. In Roses, the Department properly refused to provide an injury determination on the pre-existing order because rose imports from Israel involved dutiable, not duty-free, merchandise, and, under section 104(b), the Congress only provided an injury test for pre-existing orders on dutiable merchandise if the order was issued prior to January 1, 1980. Because certain dutiable products from Mexico, as well, are covered by countervailing duty orders that pre-existed Mexico becoming a "country under the agreement," they, likewise, have not been eligible for an injury determination. Therefore, the Department continues to enforce these orders and assess countervailing duties, where appropriate. See Ceramic Tile from Mexico; Preliminary Results of Countervailing Duty Administrative Review, 56 FR 9677 (1991; Certain Textile Mill Products from Mexico; Final Results of Countervailing Duty Administrative Review, 56 FR 12175 (1991); Leather Wearing Apparel from Mexico; Preliminary Results of Countervailing Duty Administrative Review and Intent to Revoke in part 56 FR 12173 (1991). For all of the above reasons, it cannot be argued that the United States is affording Mexico greater rights than those rights afforded other GATT Subsidies Code signatories.

Comment 5: Petitioner argues that the Department must verify "all information" relied upon in making a revocation under 19 U.S.C. 1675(c). The Department has indicated that, in making its final determination, it will rely in the information on the administrative record prepared by the ITC in connection with its section 332 investigation, information that the ITC has not verified and which the Department does not intend to verify. Petitioner contends that absent verification the Department lacks legal authority to revoke the order.

Respondents reply that under the circumstances present in this review, the Department may revoke the order without conducting a verification under 19 U.S.C. 1677(e). Even if the Department determines that Congress intended the agency to verify information relied on during a changed circumstances review, the Deparmtent may revoke the countervailing duty order using "best information available." The information relied upon by the Department was information submitted to the ITC under certification of accuracy, therefore the Department can reasonably conclude that such information constitutes the "best information available" (BIA).

Department's Position: We disagree with petitioner that the Department is required to verify the information gathered by the ITC in connection with its section 332 investigation of fabricated autoglass from Mexico prior to revoking the subject order. Under the circumstances presented in this case, it would be wholly inappropriate for the Department to verify the data presented to, analyzed by, and already verified by, the ITC.

Petitioner overlooks the fact that the current statute does not mandate the verification of injury data relied on in making an injury determination. See 19 U.S.C 1677e(b). As a result, verification of the underlying injury data is not mandated by statute, no matter which government authority makes the ultimate injury determination. Furthermore, the Department's decision not to verify the underlying injury data is consistent with its usual treatment of ITC-gathered data in making Departmental standing determinations and decisions to terminate an investigation. See PTFE (standing); Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor from Canada, Japan, Malaysia, and Taiwan, 54 FR 5156 (1989) (termination). Moreover, in the early 1980's when the ITC conducted its injury

investigations on pre-existing orders of GATT Subsidies Code signatories in conjunction with section 104(b) of the Trade Agreements Act of 1979, the Department, likewise, did not verify the ITC data prior to revoking or maintaining the orders. See Bottled Green Olives from Spain, Revocation of Countervailing Duty Order, 49 FR 23671 (1984); Cotton Yarn from Brazil, USITC Pub. 1530 (May, 1984) (finding that injury would occur if the order was revoked). Thus, contrary to petitioner's belief, 19 U.S.C. 1677e(b)(2) does not mandate the Department's verification of the injury data, even though the Department is revoking the underlying order based on such data.

The Department's regulations, likewise, do not specifically address this situation. 19 CFR 355.25(d)(3)(iii), however, states that the Secretary will "conduct a verification, if appropriate, under section 355.36." Thus, even in its current regulations, the Department recognizes that, in some instances, verification will not occur. For example, when the Department revokes an order under 19 CFR 355.25(d)(1)(i) based on no interest, there is nothing for the Department to verify. Moreover, when there are "other changed circumstances sufficient to warrant revocation or termination" in conjunction with 19 CFR 355.25(d)(1)(ii), as we have here, the current regulations do not necessarily mandate the Department's verification prior to revocation.

Notwithstanding the absence of a statutory mandate to do so, the ITC did verify extensively the injury data that it collected during its section 332 investigation. (See Telephone Notes, Verification Outline & Verification Report, Document No. 7A, List No. 2 (Proprietary/ITC)). Thus, it is unclear what petitioner would accomplish by having the Department duplicate the ITC's efforts in verifying the submitted data, especially when the majority of data in question was data submitted and certified to be accurate and complete by petitioner.

Comment 6: Petitioner disagrees with the Department's preliminary results that the U.S. automotive glass industry would not be materially injured, or threatened with material injury, if the countervailing duty order was revoked. Petitioner states that, if the Department is treating the injury investigation as analogous to those conducted under section 104(b) of the Trade Agreements Act of 1979, the analysis must have a prospective focus. According to petitioner, the ITC record does not contain all the information needed for a prospective determination.

Petitioner points out that the courts have also addressed the prospective injury standard requirement in a section 751(b) review in *American Permac* v. *United States*, 831 F.2d 269 (1987), cert. denied, 485 U.S. 901, 108 S.CE. 1067, 99 L. Ed 2d 229 (1988). The Court of Appeals for the Federal Circuit stated that, in conducting a title VII changed circumstances investigation, the ITC must first forecast the likely behavior of the foreign exporters and the importers in the event the order is revoked and then consider the impact of those imports on the U.S. industry to determine whether they will cause or threaten material injury. Petitioner contends that the Department must apply the same method of analysis and focus on the potential developments in the United States market for automotive glass, on the one hand, and in Mexican production of automotive glass, on the other.

After the ITC conducted its section 332 investigation and issued its report, petitioner submitted their assessment of the present and future conditions of the U.S. and Mexican autoglass industries and of the U.S. autoglass market. Petitioner argues that this information indicates U.S. demand for autoglass is declining, import penetration of Mexican autoglass is rising, and that the financial conditions of the U.S. industry are deteriorating. Petitioner contends that revocation of the order will allow Mexican companies to resume utilization of subsidies, i.e., FOMEX and PITEX, and that these two programs could result in subsidy margins from 2 to 11 percent. Petitioner would expect the Mexican industry to pass the full effect of subsidization through to the U.S. purchaser. As a result, Mexican imports would continue to gain U.S. market share, while the domestic industry would be facing price suppression and loss of sales at a time in which the industry is already faced with expectations of poor financial performance. Petitioner therefore concludes that the revocation of the order would threaten the U.S. industry with material injury.

Respondents contend that while a material injury determination made by the ITC and the Department in the context of a decision to revoke an existing order is necessarily prospective in nature, the present condition of the domestic industry was assessed, and it was properly determined that, if the order on automotive glass were revoked, Mexican imports would not injure the domestic industry. Respondents maintain that the USTR, in its letter of December 19, 1989, requested that the ITC consider the volume of imports of the subject merchandise on prices in the United States and the impact of such imports on domestic producers of like products, as these terms are defined in 19 U.S.C. 1677(7). Respondents further contend that this definition of material injury under title VII concerns the present, not the future, condition of the domestic industry. Furthermore, based on respondents' analysis of the ITC's injury determinations under section 104(b), it is clear that the likelihood of prospective material injury to domestic industries was consistently based on an assessment of the current condition of the domestic industry.

Department's Position: From an injury perspective, a material injury determination made in the context of a decision to revoke an existing order is necessarily prospective in nature. The inquiry essentially involves two parts: first, what the probable impact a revocation would have on imports of countervailable merchandise; and, second, whether the domestic industry would be materially injured or threatened with material injury by reason of subsidized imports.

Concerning the first part of the analysis, the subsidies received by and available to exporters of fabricated automotive glass from Mexico have changed substantially since the original investigation. Although the countervailing duty order issued in 1985 established a duty deposit rate of 4.68 percent *ad valorem*, the Department found in its first administrative review that the Mexican producers had renounced further use of subsidy programs (December 11, 1986; 51 FR 44652), and established a zero duty deposit requirement on entries of autoglass. Our administrative review of the 1986 review period confirmed this practice (December 19, 1989; 54 FR 51908).

In light of the commitments undertaken by the Mexican government in 1985 with the U.S.-Mexican Understanding on Subsidies and Countervailing Duties and in 1986 by becoming a member of GATT, it is unlikely that the Government of Mexico would introduce any new export subsidy programs. It is also apparent from recent countervailing duty administrative reviews that the trade liberalization program undertaken by the Mexican government has resulted in the termination of many subsidy programs. Of the two programs found countervailable in the autoglass investigation, FOMEX and CEPROFI, CEPROFIs are no longer available to these firms since the availability of

CEPROFIs to the industrial sector was terminated by the Industrial Sector Decree of December 31, 1987. The FOMEX program no longer provides preferential peso export financing and U.S. dollar export financing rates are steadily approaching commercially available rates. Compare Porcelain-on-Steel Cookingware from Mexico; Final Affirmative Countervailing Duty Determination, (October 10, 1986; 51 FR 36477) with Porcelain-on-Steel Cookingware from Mexico; Preliminary Results of Countervailing Duty Administrative Review, (March 7, 1991; 56 FR 9675). With respect to PITEX, the Department found in a recent verification of unprocessed float glass from Mexico (See Verification Report of March 21, 1991), an industry comparable to autoglass, that PITEX was not used.

Concerning the second part of the analysis, the fundamental focus must be on the present condition of the industry through an evaluation of the various elements defined in 19 U.S.C. 1677(7)(C)(iii). The same standard was applied in determinations under section 104(b). See, e.g., Sugar Content of Certain Articles from Australia, Inv. No. 104–TAA–26, USITC Pub. 1748 (Sept. 1985) at 12–13. We have determined that the best assessment of the present conditions of the fabricated autoglass industry is contained in the ITC report which constitutes an objective assessment of the entire U.S. industry, by an agency with unique, unquestioned expertise in this area. For this reason, we can not take into consideration the data that petitioner submitted to the Department after the ITC completed its section 332 investigation.

The ITC record demonstrates that the domestic industry's performance was somewhat mixed, but overall healthy, during 1987–89. None of the producers responding to the ITC questionnaire reported operating losses. While capacity utilization declined, the U.S. industry at the same time expanded capacity. Operating income, and operating income margin, contracted but this was primarily due to increases in the cost of goods sold.

Even assuming that subsidization resumed at levels found during the investigation and assuming that any advantage accruing to Mexican producers passed entirely through to the price of their U.S. exports, the U.S. industry would not be materially injured for the following reasons: (1) The firms subject to the order supply a small percentage of total U.S. consumption of this product; it is therefore unlikely that any price change affecting Mexican imports would affect the prices of other suppliers (ITC report at p. 93); (2) Mexican and domestic fabricated autoglass are only moderately substitutable because of consumer preference in the U.S. market for domestic glass (ITC report at p. 95); and (3) the U.S. demand for autoglass is a derived demand, which is determined by the demand in the automotive market, and is not significantly price sensitive. Furthermore, the import penetration of the Mexican products declined during 1987–89, while other foreign producers gained market share in the domestic market (ITC report at p. 55). Therefore, the Department determines that, if the order is revoked, the potential effect on the U.S. industry would not be sufficient to cause "harm which is not inconsequential, immaterial, or unimportant" as defined in 19 U.S.C. 1677(7).

Comment 7: Respondents contend that the countervailing duty order should be revoked due to changed circumstances solely on the basis of Mexico's accession to GATT and not on an independent determination by the Department that the U.S. fabricated automotive glass industry would not be materially injured or threatened with material injury due to imports of fabricated automotive glass from Mexico. The Department has acknowledged that it lacks the authority to access countervailing duties on entries of duty-free merchandise absent an injury test. As required by U.S. countervailing duty law and its "international obligations," the Department requested the ITC to conduct an injury test and was informed that the ITC lacked the authority to conduct a post-order injury test. In Indian Fasteners, the Department deemed this lack of authority for an injury test a sufficient basis to revoke the countervailing duty order.

Department's Position: We disagree. As discussed in Comment 2, the Department has developed a mechanism, and has the authority, to make an injury determination in this case. The Department's determination to revoke the order on fabricated automotive glass is based on our determination that the U.S. industry will not be injured or threatened with material injury in the event of revocation, not on the ITC's lack of authority to conduct such an injury test under Title VII.

Comment 8: Petitioner contends that, while it disagrees with the Department's basis for revocation, if the Department determines that it must revoke this order, it is bound by procedures set forth in section 104(d) of the Trade Agreements Act of 1979. Since those procedures cannot be followed exactly in this case, the Department should revoke the order effective as of the date of initiation of this review on August 10, 1990.

Respondents reply that neither the ITC's section 332 investigation nor the Department's changed circumstances review are guided by the procedural provisions of section 104(b). Furthermore, by its own terms, section 104(b) expired three years from the date of the enactment of the Trade Agreements Act of 1979. Accordingly, the procedural provisions of section 104(b) have no application with respect to the effective date of revocation of this order.

Department's Position: We concur with respondent's position that the procedural provisons of section 104(b) have no application with respect to the effective date of revocation of this order as a result of the instant changed circumstances review. Furthermore, we have determined that we lack the authority to assess countervailing duties on entries of duty-free products from Mexico absent an affirmative injury determination on entries made after the date of Mexico's accession to the GATT. Consequently, the effective date of the revocation of this order must be the date of Mexico's accession to the GATT.

Final Results of Review

As a result of our changed circumstances administrative review, we are revoking the countervailing duty order on fabricated automotive glass from Mexico. The effective date of revocation is August 24, 1986.

Therefore, the Department will instruct the Customs Service to terminate the suspension of liquidation requirement and refund any cash deposits of estimated countervailing duty made on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after August 24, 1986.

Further, as a consequence of this revocation, the administrative review of calendar year 1987 initiated on March 2, 1988 (53 FR 6681), calendar year 1988 initiated on March 8, 1989 (54 FR 9868), calendar year 1989 initiated on June 1, 1990 (55 FR 22366) and calendar year 1990 initiated on February 19, 1991 (56 FR 6621) are terminated.

This changed circumstances administrative review, revocation and notice are in accordance with sections 751(b)(1) of the Tariff Act (19 U.S.C. 1675(b)(1)) and 19 CFR 355.22(h) and 355.25(d)(3).

Dated: April 1, 1991.

Eric I. Garfinkel,

Assitant Secretary for Import Administration.

[FR Doc. 91-8191 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-301-601]

Miniature Carnations From Colombia; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On December 6, 1990, the Department of Commerce published a notice of preliminary results of countervailing duty administrative review on miniature carnations from Colombia. We have now completed that review and determine that the signatories to the suspension agreement have complied with the terms of the suspension agreement during the period January 1, 1989 through December 31, 1989.

EFFECTIVE DATE: April 8, 1991.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Barbara Williams, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1990, the Department of Commerce ("the Department") published in the **Federal Register** (55 FR 50345) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on miniature carnations from Colombia (52 FR 1353; January 13, 1987). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of miniature carnations from Colombia. During the period of review, such merchandise as classifiable under item 063.10.30 of the *Harmonized Tariff Schedule* ("HTS"). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1989 through December 31, 1989 and ten programs: (1) Tax Rebate Certificate ("CERT"); (2) Working Capital Resolutions—Resolutions 59, 11 and 14; (3) Fixed Capital Resolution—Resolution 40; (4) Duty and Tax Exemptions under Plan Vallejo; (5) Resolution 10; (6) Fund for Agricultural Financing; (7) Fund for Industrial Financing; (8) Benefits to Free Industrial Zones; (9) Preferential Export Insurance; and (10) Countertrade. This review covers 72 producers and exporters of the subject merchandise (See Appendix I of this notice for a listing of the 72 signatory producers and exporters).

Analysis of Comments Received

We gave interested parties an opportuntiy to comment on the preliminary results. We received three comments from the respondents, Asociacion Colombiana de Exportadores de Flores ("Asocolflores"), the Association of Floral Importers of Florida ("A.F.I.F."), Agrodex Ltda., Claveles Colombianos Ltda., and Horticultura de la Savana.

Comment 1: The respondents argue that the Department erred in its preliminary determination by applying its new benchmark interest rates retroactively for short- and long-term loans. The respondents state that any new benchmark interest rates should be applied only prospectively, and that during calendar year 1989, the benchmark interest rates in effect were 22.5 percent for short-term loans and 21.0 percent for long-term loans. In addition, the respondents state that the signatories to the suspension agreement complied with its terms because the Export Promotion Fund ("PROEXPO"), an agency of the Colombian government, provided loans to flower growers at interest rates at or exceeding the previously set benchmark interest rates.

Department's position: The Department agrees that any changes to short-term and long-term benchmark interest rates for this suspension agreement should be set prospectively. For purposes of this review, the benchmark interest rates for short-term and long-term loans pursuant to the suspension agreement are 22.5 percent and 21.0 percent, respectively. These are the rates that the Department established for short- and long-term benchmark interest rates in 1986. The short-term rate is the average rate of the Fondo Financiero Agropercuario ("FFA") and the Caja Agrarian Fund, and the long-term rate is the FFA interest rate. The Department recognizes that the signatories to the suspension agreement complied with the terms of the agreement during the period of review.

We note that we have revised the short-term and long-term benchmark interest rates (See Comment 2), and that the new rates will apply to loans granted after the date of publication of this notice.

Comment 2: The respondents contend that the Department's use of the FFA and Caja Agrarian Fund interest rates as benchmarks for short- and long-term interest rates are inappropriate because they are fixed rates and that the Department should have used the Depositos a Termino Fijo ("DTF") rate, the certificate of deposit rate, as the benchmark. The respondents state that, since the signing of the suspension agreement, PROEXPO has switchd from fixed-rates to variable-rates based on the DTF rate. Each PROEXPO loan is tied to the 90-day certificate of deposit interest rate in effect at the time the loan was made. In addition, the respondents state that establishing a fixed benchmark based on 1989 interest rates precludes flower growers from benefiting from any reduction in inflation.

Department's position: We agree that the appropriate benchmark should be variable because Colombia has moved from fixed-rates to variable rates based on the DTF. Respondents argue that the appropriate variable benchmark should be the DTF rate. However, they have not established that alternate sources of financing, other than that provided through PROEXPO, would also be provided at the DTF rate. Respondents stated in their response to our supplemental questionnaire that the main sources of financing for the agricultural sector in Colombia are the FFA and the Caja Agrarian Fund, in addition to the PROEXPO loans covered by the suspension agreement.

The Department has determined that effective January 1, 1990, the Colombian government has changed the FFA rate from a fixed interest rate to a variable rate based on the DTF rate. Therefore, the Department is setting the benchmark interest rate at the FFA rate since it is variable and it is the general lending rate for agricultural financing in Colombia. The short-term benchmark interest rate is DTF+1 and long-term benchmark interest rate is DTF+1 plus 0.25 percentage points for each additional year after the first year, including any grace period. These benchmarks will apply to loans granted after the date of publication of this notice.

Comment 3: The respondents argue that in the event the Department chooses to establish a fixed short-term

benchmark rate, the rate determined in the preliminary results is incorrect.

Department's position: This point is moot. See our response to Comment 2.

Final Results of Review

After considering the comments received, we determine that the signatories to the suspension agreement have compiled with the terms of the suspension agreement during the period January 1, 1989 through December 31, 1989.

The agreement can remain in force only as long as shipments covered by it account for at least 85 percent of exports of such merchandise to the United States. We have determined from the questionnaire response that the signatories comprised over 97 percent of exports of the merchandise to the United States during the period of review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: March 29, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

Appendix I

Agricola La Corsaria
Agricola La Maria Ltda.
Agricola Las Cuadras Ltda.
Agricola Los Arboles
Agricola Guacatai
Agricola Papagayo Ltdaagrodex Ltda.
Agroindustria Del Rio Frio
Agrosuba
Agropecuaria Mercantil (Agronec)
Benavides Melo Oscar (F. La Loma)
Claveles Colombianos Ltda.
Claveles De Los Alpes
Deflor Ltda.
Disagro Ltda.
Fantasia Flowers Ltda.
Floramerica
Flora Bellisina
Flores Aguila Ltda.
Flores Alfaya Ltda.
Flores Altamira
Flores Calandaima
Flores Clolombianas Ltda.
Flores Colon Ltda.
Flores De Funza, S.A.
Flores De La Sabana
Flores De Los Amigos Ltda.
Flores De Los Andes Ltda.
Flores De Suesca Ltda.
Flores Del Bosque
Flores Del Pinar
Flores Del Potrero Ltda.
Flores El Danubio Ltda.
Flores El Puente Ltda.
Flores El Zorro
Flores Generales Ltda.
Flores Gicro
Flores La Union
Flores Marandua Ltda.
Flores Rionegro Ltda.
Flores Tiba Ltda.
Flores Tibati Ltda.
Florees Tropicales Ltda.
Flores Urimaco Ltda.
Floresa
Florval S.A.
Florex S.A.
Horticultura Del La Sabana
Innovaction Andina
Inverfloresinverpalmas Ltda.
Inversiones Calipso S.A.
Inversiones Cien Ltda.
Inversiones Oro Verde
Inversiones Santa Rita Ltda.
Iturrama
Jardines Fredonia Limitada
Jardines Matalia
Linda Colombiana
Las Amalias S.A.
M.G. Consultores
Mercedes Ltda.
Pompones Ltda.
Productos Agricolas De Exporacion
Productos Alimenticious
Queen's Flowers De Colombia Ltda.
Sandra Patricia Rey
Santa Helena, S.A.
Santana Flowers Ltda.
Shasta Flowers Y Cia Ltda.
Splendid Flowers Ltda.
Tuchany S.A.
Universal De Flores, Ltda.
Valencia Botero Jaime (Agrobarbo)

[FR Doc. 91-8192 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of application for an amendment to an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs (OETCA), International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the Certificate should be amended.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether the Certificate should be amended. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87-6A004."

OETCA has received the following application for an amendment to Export Trade Certificate of Review #87-00004, which was issued on May 19, 1987 (52 FR 19371, May 22, 1987) and previously amended on December 11, 1987 (52 FR 48454, December 22, 1987), January 3, 1989 (54 FR 837, January 10, 1989), April 20, 1989 (54 FR 19427, May 5, 1989), May 31, 1989 (54 FR 24931, June 12, 1989), and May 29, 1990 (55 FR 23576, June 11, 1990).

Summary of the Application:

Applicant: National Machine Tool Builders' Association ("NMTBA") a.k.a. NMTBA—The Association for Manufacturing Technology, 7901 Westpark Drive, McLean, Virginia 22102-4269.

Contact: Richard G. Slattery, Legal Counsel, Telephone: (202) 662-6000

Application no: 87-6A004.

Date deemed submitted: March 29, 1991.

Request for amended conduct: NMTBA seeks to amend its Certificate to:

1. Add each of the following companies as a new "Member" of the Certificate: Advanced Technologies, Incorporated, Bay City, MI; Black Brothers Co., Mendota, IL; Blue Valley Machine and Mfg. Co., Inc., Kansas City, MO; Broaching Machine Specialties, Novi, MI (controlling entity: Machinery & Equipment Exchange, Inc.); Coherent General, Inc., Sturbridge, MA (controlling entity; Coherent Inc.);

Crouch Machinery, Inc., Pinehurst, NC; Curtin Hebert Co. Inc., Gloversville, NY; Debur Corporation, Chelmsford, MA; Easco Sparcatron, Whitmore Lake, MI (controlling enitity: Liquid Drive Corp.); Gold Crown Machinery, Inc., Cincinnati, OH; Haas Automation, Inc., Sun Valley, CA; Hess Engineering, Inc., Niles, MI (controlling entity: Hess Industries, Inc.); Jorgensen Conveyors, Inc., Mequon, WI; MBD Machines Division, Warsaw, IN (controlling entity: Tyler Machinery Co., Inc.); Maho Machine Tool Corporation, Naugatuck, CT (controlling entity: Maho A.G., Germany); Mega Manufacturing Inc., Hutchinson, KS; Mikron Corp. Monroe, Monroe, CT (controlling entity: Mikron Holding); Murata Wiedemann Inc., King of Prussia, PA (controlling entity: Murata Machinery Ltd.); Roto-Finish Co. Inc., Kalamazoo, MI (controlling entity: Kalamazoo Co.); Seneca Falls Machine Tool Co., Inc., Seneca Falls, NY (controlling entity: SFM Corporation); Wadell Machine & Tool Co., Inc., Somerset, NJ; and Xermac, Inc., Royal Oak, MI;

2. Delete each of the following companies as a "Member" of the Certificate: Autonumerics, Inc.; CAM-APT Inc.; CM Systems, Inc.; Eltee Pulsitron; Innovex; George T. Schmidt Inc.; Timmco International, Inc.; Wes-Tech Automation Systems; Western Machine Tool Works; and Wisconsin Drill Head Co.; and

3. Change the listing of current "Member" Sheffield Machine Tool Company to Sheffield Schaudt Grinding Systems, Inc.

Dated: April 3, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-8193 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-DR-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews: Request for an Extraordinary Challenge Committee

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Request for an Extraordinary Challenge Committee to review the January 22, 1991 binational panel decision in the panel review of the affirmative determination of threat of material injury made on remand by the U.S. International Trade Commission, on October 23, 1990, respecting Fresh, Chilled or Frozen Pork from Canada, Secretariat File No. USA-89-1904-11. This Request was filed with the United States Section of the Binational Secretariat on March 29, 1991.

SUMMARY: On March 29, 1991, the Office of the United States Trade Representative filed a Request for an Extraordinary Challenge Committee to review a decision dated January 22, 1991, in which a Binational Panel remanded to the International Trade Commission (Commission), for reconsideration the Commission's Determination on Remand filed on October 23, 1990, that the United States pork industry was threatened with material injury by reason of imports of pork from Canada. The Binational Secretariat has assigned filed number ECC-91-1904-01USA to this Request. Copies of the Request and the Panel decision are available from the FTA Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 4012, 14th and Constitution Avenue, Washington, DC 20230, (202) 377-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904.13 of the Agreement, where a Party alleges that a binational panel has seriously departed from a fundamental rule of procedure, has manifestly exceeded its powers, authority or jurisdiction or that a member of the panel has materially violated the Code of Conduct established pursuant to Article 1910, and further alleges that any of these actions have materially affected the panel's decision and threaten the integrity of the binational panel review process, that Party may request that an Extraordinary Challenge Committee be established under the procedure set out in Annex 1904.13 of the Agreement.

Under Annex 1904.13 of the Agreement, the Government of the United States and the Government of Canada established *Rules of Procedure for Article 1904 Extraordinary Challenge Committees* "ECC Rules"). These ECC Rules were published in the **Federal Register** on December 30, 1988 (53 FR 53222). The ECC Rules give effect to the provisions of Chapter Nineteen of the Agreement with respect to Extraordinary Challenge Committee proceedings conducted pursuant to Article 1904 of the Agreement. The ECC Rules are intended to result in decisions typically within 30 days after the establishment of the Extraordinary Challenge Committee. The Extraordinary Challenge Committee proceeding in this matter will be conducted in accordance with these ECC Rules.

Background

On September 13, 1989, the Commission issued its final affirmative determination of threat of material injury respecting Fresh, Chilled or Frozen Pork from Canada. Requests for Panel Review were filed as required by the *Article 1904 Panel Rules,* and a Binational Panel was convened to review the final determination.

On August 24, 1990, the Binational Panel remanded the Commission's final determination for reconsideration because the Panel found that the Commission relied heavily throughout on statistics which the Panel found questionable and which they found colored the Commission's assessment of much of the other evidence. The Panel instructed the Commission to reconsider the evidence on the record, and more particularly the figures on Canadian pork production. The Commission was given 60 days (until October 23, 1990) to take action consistent with the Panel's decision.

On October 23, 1990, the Commission issued its Determination on Remand, again finding that the United States pork industry was threatened with material injury by reason of imports of pork from Canada.

On October 25, 1990, a Motion for Panel Review of the Commission's Determination on Remand was filed by the Complainants pursuant to Rule 75, which motion was granted by the Panel on November 5, 1990. The Commission and the National Pork Producers Council filed briefs in support of the Commission's Determination on Remand

while the Complainants presented briefs contesting the Commission's findings on remand.

On January 22, 1991, the Panel issued its Decision on Remand pursuant to Rule 75(5). The Panel found that the Commission committed an error of law because it exceeded the scope of its own Notice when reopening the administrative record on remand. The Panel further found that the Commission's findings of a threat of imminent material injury were not supported by substantial evidence. For these reasons, the Panel again remanded the Commission's Determination on Remand for action not inconsistent with the Panel's Decision of August 24, 1990, and not inconsistent with the Panel's decision in this panel review of the Commission's Determination on Remand. The results of this further remand were ordered to be provided by the Commission to the Panel within 21 days of the date of this decision (by not later than February 12, 1991).

On February 12, 1991, the Commission filed its Redetermination on Remand pursuant to the Panel decision. The Commission found no material injury nor threat of material injury, but outlined several errors which it alleged the Panel made in its January 22, 1991, decision.

Request for an Extraordinary Challenge Committee

On March 29, 1991, the United States Trade Representative filed a Request for an Extraordinary Challenge Committee on behalf of the United States Government in its capacity as a Party to the United States-Canada Free-Trade Agreement, with the United States Secretary of the FTA Binational Secretariat. The Request alleges that the Binational Panel seriously departed from a fundamental rule of procedure or manifestly exceeded its power, authority or jurisdiction set forth in Article 1904 and further alleges that these actions have materially affected the panel's decision and threaten the integrity of the binational panel review process.

Rule 37 of the ECC Rules requires that Notices of Appearance in this proceeding must be filed with the United States Secretary within ten days after the Request is filed (by April 8, 1991). Under Rule 38 of the ECC Rules, briefs must be filed with the United States Secretary within 21 days of the filing of the request (by April 19, 1991).

Dated: April 2, 1991.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 91-8089 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-GT-M

National Oceanic and Atmospheric Administration

Endangered Species; Issuance of Modification #2 to Permit No. 696; Gulf Specimen Marine Laboratories, Inc.

On December 19, 1990, notice was published in the **Federal Register** (55 FR 52070) that an application for modification had been filed by the Gulf Specimen Marine Laboratories, Inc., P.O. Box 237, Panacea, Florida, 32346, to extend the expiration date of the permit from April 30, 1991, to August 30, 1991.

Notice is hereby given that on April 2, 1991, as authorized by the provisions of the Endangered Species Act of 1973, the National Marine Fisheries Service issued a modification for the above extension, subject to certain conditions set forth in the permit issued on December 22, 1989, and additional conditions set forth in this modification to the permit.

Issuance of this modification, as required by the Endangered Species Act of 1973, is based on the finding that such modification: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the modification; and (3) will be consistent with the purposes of policies set forth in section 2 of the Act. This modification was also issued in accordance with and is subject to parts 220-222 of title 50 CFR, of the National Marine Fisheries Service regulations governing endangered species permits.

The original Permit is available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., room 7324, Silver Spring, MD 20910; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702.

Dated: April 2, 1991.

Nancy Foster,

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

[FR Doc. 91-8097 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Czechoslovak Socialist Republic

April 2, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 2, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 443 is being increased by application of swing, reducing the limit for Category 434 to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 18369, published on May 16, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 2, 1991

Commissioner of Customs, Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 10, 1990 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool and man-made fiber textile

products, produced or manufactured in Czechoslovakia and exported during the twelve-month period which began on June 1, 1990 and extends through May 31, 1991.

Effective on April 2, 1991, you are directed to amend the May 10, 1990 directive to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the Czechoslovak Socialist Republic:

Category	Adjusted twelve-month limit [1]
434	12,901 dozen.
443	87,289 numbers.

[1] The limits have not been adjusted to account for any imports exported after May 31, 1990.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-8186 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

April 3, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a letter to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 9, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain cotton and man-made fiber textile products are being adjusted, variously, for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 20293, published on May 16, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washingotn, D.C. 20229.

April 3, 1991.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 10, 1990 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on June 1, 1990 and extends through May 31, 1991.

Effective on April 9th, 1991, you are directed to amend the May 10, 1990 directive to adjust the limits for the following catgories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Dominican Republic:

Category	Adjusted twelve-month limit [1]
338/638	526,939 dozen.
339/639	596,632 dozen.
340/640	530,058 dozen.
342/642	228,913 dozen.
351/651	708,000 dozen.
347/348/647/648	1,178,656 dozen of which not more than 841,576 dozen shall be in Categories 347/348 and not more than 674,160 dozen shall be in Categories 647/648.
633	77,067 dozen.
644	421,552 numbers.

[1] The limits have not been adjusted to account for and imports exported after May 31, 1990

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-8194 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-DR-M

Amendment to the Export Visa Arrangement for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

April 2, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending export visa requirements.

EFFECTIVE DATE: April 10, 1991.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing export visa arrangement between the Governments of the United States and the People's Republic of China is being amended to permit entry of merchandise produced or manufactured in China and entered on or after April 10, 1991 which is accompanied by visas issued by the Embassy of the People's Republic of China in Washington, DC.

The Government of the People's Republic of China may issue replacement visas from Washington, DC, for shipments which are required to be visaed under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of February 2, 1988. A Textile Export Visa/Invoice, along with facsimiles of the signatures of authorized issuing officials, is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

See Federal Register notices 49 FR 7264, published on February 28, 1984; and 52 FR 28741, published on August 3, 1987

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 2, 1991

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 23, 1984, as amended, by the Chairman, Committee for the Implementation of Textile Agreements That directive, as

amended, concerns export visa requirements for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China.

Effective on April 10, 1991, you are directed to amend further the February 23, 1984 directive to accept entry of merchandise accompanied by visas issued by the Embassy of the People's Republic of China in Washington, DC, for merchandise produced or manufactured in China and entered on or after April 10, 1991.

The replacement visa shall consist of a Textile Export Visa/Invoice form bearing an official Chinese Embassy embossed stamp on the front in box number 6, along with the signature of an authorized official of the Government of the People's Republic of China. The embossed stamp must be placed on an original Textile Export Visa/Invoice form. This form will include, among other things identified in the visa arrangement, the correct category and quantity, and the standard nine-digit format visa number, beginning with one numeric digit for the last digit of the year of export followed by the two character alpha country code specified by the International Organization for Standardization (ISO). The code for the People's Republic of China is "CN." A sample Textile Export Visa/Invoice form and facsimiles of the signatures of officials authorized to issue replacement visas are enclosed.

Shipments which are entered on or after April 10, 1991 which are accompanied by a replacement visa shall be denied entry if any information required on the replacement visa is missing, incorrect or illegible, or has been crossed out or altered in any way. All previous export visa requirements shall be retained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

BILLING CODE 3510-25-M

THE EMBASSY OF THE PEOPLE'S REPUBLIC OF CHINA
2300 Connecticut Avenue, N.W.
Washington, D.C. 20008

TEXTILE EXPORT VISA/INVOICE	VISA NO(S): DATE OF ISSUE:
1) EXPORTER:	6) CATEGORY / QUANTITY / UNIT / U.S.VALUE TOTAL
2) CONSIGNEE:	
3) INVOICE NO(S):	
4) AWB/BILL OF LADING/ENTRY NO:	SIGNING AUTHORITY Cai Jiaxiang 蔡嘉祥 EITHER CAI JIA XIANG Second Secretary(Commerce)
5) DESCRIPTION	Xia Guoqing 夏国庆 OR XIA GUOQING Second Secretary(Commerce)

[FR Doc. 91-8188 Filed 4-5-91; 8:45 am]
BILLING CODE 3510-25-C

Denial of Participation in the Special Access and Special Regime Programs

April 2, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a letter to the Commissioner of Customs denying the right to participate in the Special Access and Special Regime Programs.

EFFECTIVE DATE: April 3, 1991.

FOR FURTHER INFORMATION CONTACT: Nathaniel Cohen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Committee for the Implementation of Textile Agreements (CITA) has determined that Apparel Concepts, Inc., of El Paso, Texas, is in violation of the requirements set forth for participation in the Special Access and Special Regime Programs.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, effective on April 3, 1991, to deny Apparel Concepts, Inc., the right to participate in the Special Access and Special Regime Programs, for a period of three years, beginning April 3, 1991 and ending April 2, 1994.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989.

Requirements for participation in the Special Regime Program are available in **Federal Register** notices 53 FR 15724, published on May 3, 1988; 53 FR 32421, published on August 25, 1988; 53 FR 49346, published on December 7, 1988; and FR 50425, published on December 6, 1989.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 2, 1991.

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has determined that Apparel Concepts, Inc., of El Paso, Texas, is in violation of the requirements for participation in the Special Access and Special Regime Programs.

Effective on April 3, 1991, you are directed to prohibit Apparel Concepts, Inc., from further participation in the Special Access and Special Regime Programs, for a period of three years, beginning April 3, 1991 and ending April 2, 1994. Goods accompanied by Form ITA-370P which are presented to U.S. Customs for export under the Special Access and Special Regime Programs will no longer be accepted.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-8197 Filed 4-5-91; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Draft Environmental Impact Statement for the Partial Closure of Fort Meade, MD, and Fort Holabird, MD

AGENCY: U.S. Army, DOD.

SUMMARY: Fort Meade and Fort Holabird were recommended for partial closure by the Defense Secretary's Commission on Base Realignment and Closure. The Commission specifically recommended: The closure of 9,000 acres of Fort Meade, to include Tipton Army Airfield, and the relocation of Criminal Investigation Command activities to Fort Belvoir; and the partial closure of Fort Holabird and relocation of the Crime Records Center to Fort Belvoir. The relocation of the Headquarters, Criminal Investigation Command, from Falls Church, Virginia, to Fort Belvoir is also addressed. This document focuses upon the environmental and socioeconomic impacts and mitigations associated with the planned partial closure of Fort Meade and Fort Holabird. The environmental analysis for the impacts on Fort Belvoir will be addressed in a separate document.

No long-term adverse environmental or socioeconomic effects are expected as a result of realignment and closure implementation. The Department of Defense Office of Economic Adjustment is working with the local community to develop reuse alternatives.

The public is encouraged to comment on the Draft EIS. Public notices requesting input and comments will be issued, and a public hearing will be held in the community adjacent to Fort Meade in about one month. A copy of the Draft EIS may be obtained by contacting Mr. Keith Harris, (301) 962-2558, or by writing to: Commander, U.S. Army Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore, MD 21203-1715.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (I, L&E).

[FR Doc. 91-8083 Filed 4-5-91; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Industrial Associates Program Announcement

By this notice the DOE is advising industry of an Industrial Associates Program at the U.S. Department of Energy's Savannah River Site (SRS), sponsored by DOE's management and operating contractor Westinghouse Savannah River Company (WSRC). The purpose of the program is to increase industry awareness of the technologies available for licensing. We require that potential participants write to us stating their particular area of interest, the preferred dates from your schedule, and a vita of the individual who would like to participate. Participants may spend 5 days at the site. Time will be divided between the Technology Transfer Office to review available technologies, and the area of technical interest. There is no cost to be an industrial associate. Only U.S. citizens may participate.

For further information contact Caroline Speed, Westinghouse Savannah River Company, Building 770-A, P.O. Box 616, Aiken, SC 29802, Telephone: (803) 725-5540.

P.W. Kaspar,

Manager, Savannah River Operations Office.

[FR Doc. 91-8184 Filed 4-5-91; 8:45 am]

BILLING CODE 6450-01-M

Announcement of an Integrated Demonstration of Volatile Organic Carbon (VOC) Destruction at DOE's Savannah River Site

DOE's Office of Technology Development established an integrated demonstration at the Savannah River Site near Aiken, SC for groundwater cleanup. This demonstration is focused on the removal of chlorinated hydrocarbons present in the subsurface. The initial activity demonstrated an effective mechanism for in-situ airstripping of volatile organics. As part of this integrated demonstration, DOE is interested in cooperating with industrial partners to test and evaluate their

various methods for destroying chlorinated hydrocarbons in an aqueous or atmospheric discharge during a cleanup operation. Some approaches to the destruction methodology include photooxidation, catalytic conversion, and biodegration. The willingness of the industrial partner to pay for the installation and operation of their device, and their simplicity and cost will be major considerations.

For further information contact Caroline Speed, Westinghouse Savannah River Company, Savannah River Site, Building 770-A, P.O. Box 616, Aiken, SC 29802, telephone: (803) 725-5540.

P. W. Kaspar,

Manager, Savannah River Operations Office.

[FR Doc. 91-8183 Filed 4-5-91; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Variable Industrial Power Rate (VI-91) Administrator's Final Record of Decision

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Record of decision (ROD).

SUMMARY: BPA decided to adopt a Variable Industrial Power (VI) rate virtually identical to the existing VI rate for the period July 1, 1993, through June 30, 1996. The VI rate, a power rate linked to the price of aluminum, is applicable to all BPA Direct Service Industrial (DSI) customers involved in primary aluminum production. BPA adopted the VI rate in 1986 following completion of a formal rate hearing process and completion of the DSI Options Final Environmental Impact Statement (Final EIS). These were undertaken based on conclusions of the earlier DSI Options Study that examined mid- to long-term DSI policy, service, and rate options. The VI rate was first implemented in August of 1986.

The rate was designed to be in effect for 10 years, through June of 1996. All DSI aluminum smelters elected to take service under this rate schedule and entered into 10-year contracts with BPA to implement the VI rate. The Federal Energy Regulatory Commission (FERC) granted final approval of the rate for only 7 years, through July 1993. The decision documented in this ROD essentially extends the existing VI rate through the 10-year term of the VI contracts.

In accordance with the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), BPA announced a hearing on its rate proposal to extend the VI rate for 3 years through the VI contract term. Five interventions were filed. During the course of discovery, BPA responded to 17 data requests. The DSIs were the only litigant other than BPA to file testimony. That testimony supports BPA's proposal. No initial briefs were filed. No comments were received from participants. A draft ROD was provided for review by the rate case participants on January 18, 1991; no briefs on exception were filed.

Adoption of the rate is within the relevant statutory guidelines and discretion of the Administrator. The adoption of the rate for the 3-year period will become effective upon confirmation and approval by FERC. BPA will submit the VI rate to FERC with the next general rate case.

BPA is adopting a VI rate more than 2 years before the current VI rate expires because rate certainty would help the DSIs make investment decisions that will maintain their competitiveness in the aluminum market. The DSI's ability to make investment decisions may be hindered by unnecessarily introducing uncertainty about the availability of the VI rate. Improved rate predictability reduces the likelihood of aluminum smelter closures. BPA thus would be able to forecast more accurately its resource and revenue needs. BPA preformed analyses during the summer of 1990 that supports the adoption of the rate.

The Final EIS still serves as an adequate basis for providing environmental information relative to the decison to adopt the VI rate for the 3-year period. This decision does not require a consideration of alternatives other than to extend the rate in its current form for the remainder of the VI contracts or to terminate the current rate. No party expressed a view that other alternatives should be considered. The consequences of other alternatives analyzed in the Final EIS would still be as projected in the Final EIS.

Experience with the effects of the VI rate has demonstrated a stabilizing effect on DSI loads, as was projected in the Final EIS and as was intended.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Price, Public Involvement office, at the address listed above, 503-230-4366. Oregon callers may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048.

Information may also be obtained from:

Mr. George E. Bell, Lower Columbia Area Manager, Suite 243, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Robert N. Laffel, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene Oregon 97401, 503-465-6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-353-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, Room 307, 301 Yakima Street, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Terence G. Esvelt, Puget Sound Area Manager, P.O. Box C19030, Suite 400, 201 Queen Anne Avenue North, Seattle, Washington 98109-1030, 206-553-4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, 101 West Poplar, Walla Walla, Washington 99362, 509-522-6225.

Mr. Richard Itami, Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208-524-2706.

Mr. Thomas H. Blankenship, Boise District Manager, Room 450, 304 N. 8th Street, Boise, Idaho 83702, 208-334-9137.

SUPPLEMENTARY INFORMATION: Variable Industrial Power Rate VI-91; Administrator's Final Record of Decision.

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Attachment—Proposed Variable Industrial Power Rate

Chapter I—Background

A. Introduction

Bonneville Power Administration (BPA) sells electric power to its direct service industrial (DSI) customers under the Industrial Firm Power (IP) rate schedule and, for those DSI aluminum smelters electing to participate, the Variable Industrial Power (VI) rate schedule and contracts.

The VI rate contracts are for a term of 10 years, ending June 20, 1996. The VI rate schedule is in effect through June 30, 1993.

On September 28, 1990, BPA published a notice proposing to adopt a rate virtually identical to the existing VI rate of the period July 1, 1993, through June 30, 1996. 55 FR 39691. This Record of Decision (ROD), based on the record developed during a rate hearing, adopts the proposal.

B. History of the VI Rate

During the first half of the 1980's, the amount of electric power demanded by the DSI aluminum smelter customers was unstable and unpredictable due to fluctuating aluminum market conditions. Many of the region's smelters were operated at reduced levels or shutdown during that time. The unpredictable demand for power caused uncertainty about BPA's resource planning, financial strength, and rate stability.

The issue of the DSIs' long-term viability was raised in BPA's 1985 wholesale power rate proceeding. The DSIs claimed that they need predictable and stable rates to help them make long-term investment decisions. In June of 1985, BPA issued the DSI Options Study, which examined mid- to long-term DSI policy, service, and rate options. Based on the results of the study and public comment, BPA decided to pursue the development of a variable power rate linked to the price of aluminum.

In 1985 and 1986, BPA conducted a hearing pursuant to Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) Section 7(i), 16 U.S.C. 839e(i), which resulted in the adoption in 1986 of the VI rate. Administrator's Record of Decision, 1986 Variable Industrial Power Rate Proposal (June 1986) (1986 VI ROD). The structure of the VI rate is described in detail herein in Chapter II.

The VI rate was first implemented in August of 1986. The rate was designed to be in effect for 10 years, through June of 1996. All DSI aluminum smelters elected to take service under this rate schedule and entered into the 10-year contracts with BPA to implement the rate. The Federal Energy Regulatory Commission (Commission) granted final approval of the rate for only 7 years, through July of 1993. United States Dep't of Energy—Bonneville Power Admin., 36 FERC ¶ 61,078 (1987).

In order to fulfill the full 10-year term of the VI contracts, BPA proposes to adopt a rate, nearly identical to the existing VI rate, for the remaining 3 years, through June 30, 1996. BPA proposes to adopt a VI rate more than 2 years before the current VI rate expires because rate certainty would help the DSIs make investment decisions that will maintain their competitiveness in the aluminum market. The DSIs' ability to make investment decisions may be hindered by unnecessarily introducing uncertainty about the availability of the VI rate. Parker *et al.*, VI-91-E-BPA-01, 2. Moreover, the analysis forming the basis for adopting the VI rate for the additional 3-year period was prepared during the summer of 1990 to address whether BPA should terminate the VI rate and contract. (The VI-87 rate schedule and VI contract contain provisions allowing BPA to terminate the rate and contract at the 5-year point, effective July 1, 1991. In a letter dated January 15, 1991, the BPA Administrator informed parties that the VI rate and contract would not be terminated.) The analysis received public comment and would have to be redone at a later time if BPA delayed the VI rate hearing. *Id.*, 2.

C. Procedural History of This Rate Proceeding

In accordance with the Northwest Power Act Section 7(i), 16 U.S.C. 839e(i), BPA announced a hearing on its rate proposal. 55 FR 39691 (1990). Five interventions were filed on behalf of the following: Public Power Council [1]; PacifiCorp, dba Pacific Power & Light Company and Utah Power & Light Company; Puget Sound Power & Light Company; Association of Public Agency Customers [2]; and Direct Service Industrial Customers.[3]

Dean F. Ratzman, Hearing Officer, commenced the proceeding with a prehearing conference on October 11, 1990, wherein he ruled upon matters of interventions and scheduling. Judge Ratzman also issued "Special Rules of Practice to Govern This Proceeding." VI-91-O-02. BPA's direct testimony, filed October 2, 1990, was sponsored by Nancy Parker, Raymond D. Bliven, and Samuel O. Sugiyama. VI-91-E-BPA-01. Qualifications of those witnesses were filed at the same time. VI-91-Q-BPA-01, -02, and -03. The parties waived cross-examination of BPA's witnesses (*see* VI-91-M-04, VI-91-O-03). During the course of discovery, BPA responded to 17 data requests, and the DSIs responded to 2 data requests.

The DSIs were the only litigant other than BPA to file testimony. Exhibits VI-91-E-DS-01 and VI-91-Q-DS-01 were admitted on motion and affidavit without cross-examination. VI-91-M-05, VI-91-O-04. That testimony supports BPA's proposal. No initial briefs were filed. No comments were received from participants. A draft ROD was published on January 18, 1991; no briefs on exception were filed.

D. Legal Guidelines Governing Establishment of Rates

1. Statutory Guidelines

Ratemaking standards governing BPA's wholesale power rates are found exclusively in the Northwest Power Act. Section 7(a) directs the Administrator to establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity. Rates are to be set to recover collectively, over a reasonable period of years, "in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (FCRPS) (including irrigation costs required to be repaid out of power revenues) and the other costs and expenses incurred by the Administrator * * *." 16 U.S.C. 839e(a)(1).

Northwest Power Act Section 7(a) also directs that these rates be set in accordance with Section 9 of the Columbia River Transmission System Act (Transmission System Act), 16 U.S.C. Section 838g (1974), and Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s. Section 9 of the Transmission System Act requires, among other things, that BPA's power and transmission rates be established with a view to encouraging the widest

[1] The Public Power Council is a trade association consisting of 114 of BPA's preference customers.

[2] The Association of Public Agency Customers is a trade association consisting of nine industries that purchase electric power from BPA's preference customers.

[3] The DSIs intervened as an entity and through the following individual members: Aluminum Company of America; Atochem North America; Columbia Aluminum Corporation; Columbia Falls Aluminum Company; Georgia-Pacific Corporation; Intalco Aluminum Corporation; Kaiser Aluminum & Chemical Corporation; Northwest Aluminum Company; Oregon Metallurgical Corporation; Reynolds Metals Company; and Vanalco, Inc.

possible diversified use of Federal power at the lowest possible rates to consumers consistent with sound business principles, while having regard to recovery of costs of producing and transmitting the power and to repayment of the U.S. Treasury. 16 U.S.C. 838g. *See also* 16 U.S.C. 839e(a)(2)(C). Substantially the same requirement is set out in Section 5 of the Flood Control Act, 16 U.S.C. 825s.

2. Specific Rate Guidelines

Rates for the DSIs are to be set according to the provisions of Northwest Power Act Section 7(c), 16 U.S.C. 839e(c). This section provides that, beginning July 1, 1985, the rate or rates that apply to DSIs shall be set at "a level which the Administrator determines to be equitable in relation to the retail rates charged by (preference) customers to their industrial consumers in the region." 16 U.S.C. 839e(c)(1)(B).

> That determination shall be based upon the Administrator's applicable wholesale rates to * * * public body and cooperative customers and the typical margins included by such * * * customers in their retail industrial rates * * *.

16 U.S.C. 839e(c)(2).

Section 7(c)(2) further directs that the rate determination must take into account

> (A) the comparative size and character of the loads served; (B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions; and (C) direct and indirect overhead costs, all as related to the delivery of power to industrial customers * * *.

16 U.S.C. 839e(c)(2)(A)–(C).

Section 7(c)(2) requires that DSI rates "shall in no event be less than the rates in effect for the contract year ending on June 30, 1985." *See* 1986 VI ROD at 9–22.

Finally, Section 7(c)(3), 16 U.S.C. 839e(c)(3), directs that DSI rates must be adjusted to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

3. Ratemaking Discretion Vested in the Administrator

The Administrator has broad discretion to interpret and implement statutory standards applicable to ratemaking. These standards focus on cost recovery and do not restrict the Administrator to any particular rate design method or theory. *See Pacific Power & Light Co.* v. *Duncan*, 499 F. Supp. 672, 683 (D. Ore. 1980). *Accord, City of Santa Clara* v. *Andrus*, 572 F.2d 660, 668 (9th Cir. 1978) ("widest possible use" standard is so broad as to permit "the exercise of the widest administrative discretion"); *Electricities of North Carolina* v. *Southeastern Power Admin.*, 774 F.2d 1262, 1266 (4th Cir. 1985).

The United States Court of Appeals for the Ninth Circuit has specifically recognized the Administrator's ratemaking discretion. *Central Lincoln Peoples' Util. Dist.* v. *Johnson*, 735 F.2d 1101, 1116, 1120–1129 (9th Cir. 1984) (*Central Lincoln*) (upheld BPA on the merits of every rate issue and declared that "[b]ecause BPA helped draft and must administer the [Northwest Power] Act, we give substantial deference to BPA's statutory interpretation"); *PacifiCorp* v. *Federal Energy Regulatory Comm'n*, 795 F.2d 816, 821 (9th Cir. 1986) ("BPA's interpretation is entitled to great deference and must be upheld unless it is unreasonable"); *Atlantic Richfield Co.* v. *Bonneville Power Admin.*, 818 F.2d 701, 705 (9th Cir. 1987) (BPA's rate determination upheld as a "reasonable decision in light of economic realities"); *cf. Aluminum Co. of America* v. *Central Lincoln Peoples' Util. Dist.*, 467 U.S. 380, 389 (1984) ("[t]he Administrator's interpretation of the [Northwest Power] Act is to be given great weight"); *Department of Water and Power of the City of Los Angeles* v. *Bonneville Power Admin.*, 759 F.2d 684, 690 (9th Cir. 1985) ("[i]nsofar as agency action is the result of its interpretation of its organic statutes, the agency's interpretation is to be given great weight"); *Aluminum Co. of America* v. *Bonneville Power Admin.*, 903 F.2d 585, 590 (9th Cir. 1989), *cert. denied*, 59 U.S.L.W. 3457 (U.S. Jan. 7, 1991) (No. 90–505) (*Alcoa*) ("We defer to the interpretation of a statute by the agencies charged with administering it * * *. Because BPA drafted the [Northwest Power] Act, its interpretation is to be given 'great weight' and should be upheld if reasonable.")

4. Confirmation and Approval of Rates

BPA's rates become effective upon confirmation and approval by the Commission. 16 U.S.C. 839e(a)(2). The Commission's review is appellate in nature, based on the record developed by the Administrator. *Central Lincoln*, 735 F.2d at 1116; *Alcoa*, 903 F.2d at 590; *United States Dep't of Energy—Bonneville Power Admin.*, 13 FERC ¶ 61,157, 61,339 (1980). The Commission may not modify rates proposed by the Administrator, but may only confirm, reject, or remand them. *United States Dep't of Energy—Bonneville Power Admin.*, 23 FERC ¶ 61,378, 61,801 (1983). *See also* 18 CFR 300.21(e). The purpose of Commission review of BPA's power rates is to ensure that those rates are sufficient to repay the Federal investment in the FCRPS over a reasonable number of years after first meeting BPA's other costs, and are based on BPA's total system costs. 16 U.S.C. 839e(2).

Pursuant to Northwest Power Act Section 7(i)(6), 16 U.S.C. 839e(i)(6), the Commission has promulgated rules establishing procedures for the approval of BPA rates. 18 CFR part 300 (1984). The Commission adopted a final rule amending these procedures effective July 6, 1987. 52 FR 20704 (1987).

Chapter II—VI Rate Proposal

A. Proposed VI–91 Rate Schedule

The proposed VI–91 rate (Attachment 1) is nearly identical to the VI–87 rate. Only the language in the VI–87 rate that is not relevant to the 1993–1996 period has been deleted from the proposed VI–91 rate schedule and GRSPs. The rates and rate parameters specified in the rate schedule reflect those in effect on July 1, 1990. The rate levels established for the period July 1993 through June 1996, will be the same under the VI–91 rate as they would have been under the VI–87 rate had the Commission approved it for the full 10-year period. Parker *et al.*, VI–91–E–BPA–01, 5.

The VI rate varies with the market price of aluminum, lagged 3 months. When the market price of aluminum drops below a defined point, the VI rate decreases, helping the smelters remain competitive and maintain stable loads on BPA. Likewise, when the market price rises above a defined point, the VI rate increases, enhancing BPA's revenue from sales to DSIs. *Id.*, 5.

The key parameters of the VI rate are the plateau, the upper and lower pivot prices, and the upper and lower rate limits. The VI rate is constant over a range of aluminum prices between the upper and lower pivot prices. This range is the *plateau*, which is set equal to the IP rate. When the price of aluminum is above the *upper pivot price*, the energy rate increases by 0.75 mills/kilowatthour (kWh) for every 1 cent/pound (lb) increase in aluminum prices, up to the upper rate limit. The *upper rate limit* is the point above which an increase in aluminum prices does not result in additional changes in the rate. When aluminum prices are below the *lower pivot price*, the energy rate decreases by 1 mill/kWh for every 1 cent/lb decrease in aluminum prices, down to the lower rate limit. The *lower rate limit* is the floor: decreases in aluminum prices below the lower rate

limit do not result in additional changes to the rate. *Id.*, 6.

The VI rate is adjusted every general rate case. The demand charge, plateau energy charge, first quartile service adjustment, and upper and lower rate limits are adjusted based on the change in the overall IP rate level. Thus, the VI rate reflects BPA cost increases. The upper and lower pivot points are adjusted every year on July 1 to reflect changes in aluminum production costs. In addition, the lower rate limit is increased by 1 mill/kWh every 2 years on July 1. *Id.*, 6–7.

B. VI Rate Review

1. Decision Criteria

When the VI rate was developed in 1986, the smelters were increasingly operated at reduced levels or shutdown. A large amount of surplus power was available on the Federal system, and the opportunity cost of the surplus power was low. The specific goals of the VI rate as developed in 1986 for a 10-year period were the following:

a. To discourage plant closure in the near term;

b. To encourage high aluminum smelter operating rates and discourage swing operations during BPA's surplus period; and

c. To increase revenues over revenues expected if the IP rate were to remain in effect. If possible, the average VI rate should equal the average IP rate over the 10-year period.

1986 VI ROD, 29.

These specific goals were stated in terms of the then-current conditions. The first two goals have been met by the VI rate. The third goal has been achieved for the period the rate has been in effect. Parker *et al.*, VI–91–E–BPA–01, Attachment 2. Over the full 10-year period, the DSIs forecast that the VI rate will increase revenues by at least $249 million over those expected if the IP rate were in place. Schoenbeck, VI–91–E–DS–01, 6. The VI rate, which was forecast in 1986 to collect a higher average rate than the IP rate over a 10-year period, is still forecast to accomplish that goal. The DSIs calculate that the average VI rate is forecast to be 25.1 mills/kWh for the 10-year period compared to a forecast IP rate of 24.5 mills/kWh. *Id.*, 10–11. More fundamentally, however, the VI rate was designed to improve BPA's financial position by stabilizing DSI load at a high level. This would enable BPA to recover greater revenues from the sale of that power to the DSIs than from alternate uses and reduce the risk associated with volatile DSI loads and alternate markets. Parker *et al.*, VI–91–E–BPA–01, 8.

BPA is forecasting currently that little or no surplus firm power will be available and that alternate uses of the power that were not present in 1986, such as displacing purchase power, may now be available. While current circumstances differ somewhat from those in 1986, the fundamental objective of the VI rate goals is valid. BPA still wishes to improve its financial position by stabilizing DSI loads in order to recover greater revenues and reduce risk of revenue underrecovery due to volatile loads and markets. *Id.*, 8.

In addition, the VI rate appears to make the smelters more competitive in the world aluminum market, particularly during periods of low aluminum prices. The smelters' ability to negotiate contracts and make investments may be hampered without the continuation of the VI rate. Given the success of the VI rate for both the aluminum smelters and BPA, the smelters likely have conducted business and made investments since 1986 expecting that the VI rate would be in place for the full 10-year contract period. *Id.*, 8–9.

Although the VI rate was approved for only 7 years, the VI rate goals were developed assuming that the rate would be effective for 10 years. To develop criteria by which to evaluate the proposed VI–91 rate for the remaining 3 years of the contract term, BPA focused on the fundamental objectives of the VI rate that were embodied in the specific goals. The resulting criteria used in evaluating this VI rate proposal are the following;

a. Recover revenues and maintain a level of financial risk comparable to what could be expected if BPA does not have a VI rate; and

b. Help the aluminum smelters cope with aluminum price volatility if the VI rate is beneficial to BPA.

In the interests of rate stability and continuity, then, the VI rate should be continued through the 10-year contract term if revenues and financial risk are approximately the same as under an IP rate. Parker *et al.* VI–91–E–BPA–01, 7.

The DSIs assert that the 1986 goals of encouraging high operating levels, enhancing BPA revenue, and charging a rate at least equivalent to the IP rate remain valid. They suggest that an additional important consideration is how the VI rate has performed so far, and its expected performance over the remaining years of the contract term. If positive benefits can be shown over the entire 10 years, then the VI rate should be extended. Schoenbeck, VI–91–E–DS–01, 4. The DSIs conclude that the goals continue to be met by the VI rate and, thus, the rate should be extended. *Id.*, 15–16.

2. Evaluation of Results of VI Rate Analysis

To capture a full range of aluminum market conditions, BPA analyzed the effect of six aluminum price scenarios on revenues net of purchase power and storage costs for the forecast period. For each aluminum price forecast, BPA developed two forecasts of aluminum smelter loads, one assuming the VI rate was in effect, and one assuming the IP rate was in effect. Using the Revenue Forecast model, BPA derived expected revenues net of purchase power and storage costs for the two load cases of each aluminum price scenario and compared them. One expected value was calculated for all six aluminum price scenarios: probabilities of occurrence for each of the six aluminum price forecasts were developed and applied to the revenue difference between each of the two cases (revenue assuming the VI rate and revenue assuming the IP rate). Parker *et al.*, VI–91–E–BPA–01, 9. *See* Attachment 4 of VI–91–E–BPA–01 for an overview of the analytic process.

a. *Results: Aluminum Smelter Loads.* Aluminum smelter loads are higher with the VI rate in place than with the IP rate for four of the six aluminum price forecasts. For the remaining two aluminum price forecasts, aluminum smelter loads are the same regardless of the rate. Therefore, aluminum smelter loads are forecast to be more stable at the VI rate than at the IP rate. *Id.*, 9–10.

The greater DSI load stability with the VI rate increases BPA's operational and resource planning certainty, and reduces BPA's reliance on volatile economy energy markets for revenue recovery. *Id.* 9–10. Assuming the IP rate is in place, DSI loads would fluctuate as aluminum prices change. The changing DSI loads would cause BPA to adjust its annual operating plan. BPA operations could become less efficient and, possibly, more expensive, *Id.*, 10.

The DSIs argue that a high DSI load level provides additional operational benefits to BPA. They cite a 1990 DSI-sponsored study that undertook to determine the value to the power system of the DSI load shape and service characteristics. Schoenbeck, VI–91–E–DS–01, 14. The study declares that minimum generation constraints on the Federal hydro system already constrain operations or dictate return schedules to some extent for 6 months of the year. *Id.*, 14–15. Under the Low Cycle aluminum forecast, IP smelter loads decline more than 800 average megawatts. The DSIs

claim that such substantial decreases in smelter load would exacerbate BPA's minimum generation constraints and increases costs. Therefore, DSIs assert that maintenance of a high DSI operating level also provides system benefits by maintaining BPA operating flexibility. *Id.*, 15.

BPA's resource planning certainty also is increased by the greater DSI load stability at the VI rate. When DSI load is stable and DSIs are healthy, BPA and its customers can have greater confidence in the load forecast upon which BPA's need to acquire resources is based. Thus, the VI rate increases BPA's operational and resource planning certainty. Parker *et al.*, VI-91-E-BPA-01, 10-11.

b. *Results: Revenues.* On an expected value basis for the 3-year period, 1993-1996, BPA revenues from the aluminum smelters were forecast to be $19.6 million higher assuming the VI rate is in effect than if the IP rate is in effect. More revenues are forecast from smelters at the VI rate due, in part, to the higher smelter loads at the VI rate than at the IP rate. *Id.*, Attachment 7. Overall, expected revenues net of purchase power and storage costs are forecast to be $19.2 million lower assuming the VI rate is in effect than if the IP rate was in effect. *Id.*, Attachment 6. This difference between the overall revenues and the smelter revenues is attributable to the forecast assumptions regarding opportunity cost.

Aluminum smelter loads are lower in the IP case than in the VI case. The Revenue Forecast model used to compute revenues net of purchase power and storage costs assumes perfect knowledge of loads and resources at the beginning of a year, and thus, assumes purchases of exactly the amount of power necessary to serve loads. Given that smelter loads are lower at the IP rate than at the VI rate, less purchase power is required and more surplus energy is available to market. In comparing the VI case to the IP case, the lower revenue from the smelters at the IP rate is made up by a decrease in purchase power cost plus additional surplus sales. *Id.*, 12-13.

BPA interprets the overall revenue difference of $19.2 million as not being significantly different from a neutral result (*i.e.*, zero). The revenue difference is 0.3 percent of the total revenues (excluding revenues from utilities participating in the Residential Exchange program) of $7.8 billion for the 3-year period. The analyses are based on forecasts of conditions that are, by nature, often quite volatile (such as purchase power cost and economy energy prices). In addition, models used to forecast smelter loads and BPA revenues are simulations of complex systems and decision processes. *Id.*, 11-12.

The DSIs assert that BPA's assumption, that BPA can exactly match loads and resources without incurring any unavoidable cost commitments, is unrealistic. Schoenbeck, VI-91-E-DS-01, 7. They claim that BPA's resource acquisition program will focus on conservation, hydro efficiency improvements, billing credits, competitive bid acquisition, and a pilot geothermal project for which the cost will primarily be fixed. They argue that, therefore, the revenue analysis should assume that resources are acquired regardless of whether the projected load materializes, and that the resource cost is not displaceable. Schoenbeck, VI-91-E-DS-01, 7-8.

The DSIs did a revenue analysis similar to BPA's except they assumed the same amount of 100 percent fixed cost resource acquisitions in both the VI and IP cases. As smelter load decreased in the IP case, surplus power was available to sell, but could not displace any resource cost. Their analysis resulted in additional expected revenue of $12.4 million for FYs 1991-1996 in the VI case compared to the IP case. *Id.*, 8-9.

c. *Predictability and Stability of BPA Revenues.* BPA revenues will likely be more predictable and stable with the VI rate than with the IP rate. This is due to two factors. First, the VI rate plateau is significantly elongated beginning July 1, 1991 through 1996, due to high aluminum prices experienced during the first 5 years of the VI rate. Therefore, the monthly VI rate will be the plateau rate over a wide range of aluminum prices. Parker *et al.*, VI-91-E-BPA-01, 13. Second, smelter load is forecast to be lower at the IP rate than at the VI rate. The freed-up power in the IP case is sold as surplus or displaces purchases. Thus, due to the greater dependence on market factors for revenue recovery at the IP rate, the risk of revenue underrecovery will likely be greater at the IP rate than at the VI rate. *Id.*, 13-14.

C. Ability to Repay Treasury

BPA's ability to repay the Treasury is not affected by continuing the VI rate through 1996. The VI rate structure is fixed, but the parameters of the rate are adjusted in general rate cases to reflect BPA cost increases. In addition, BPA generally reviews all rates every 2 years, and at least every 5 years, to assure that rates are sufficient to recover all costs. If BPA forecasts that its current rates will not be sufficient to recover its revenue requirement, BPA would adjust all rates to recover, in total, all BPA costs. Parker *et al.*, VI-91-E-BPA-01, 15.

The VI rate has had a favorable effect on BPA revenue recovery since it was first implemented in 1986. For the period August 1986 through July 1991, BPA estimtes that $230 million more in revenues will be collected under the VI rate than if the IP rate were used for aluminum smelter loads. Aluminum prices were low when the VI rate was developed but recovered to higher levels during 1987. Revenues from the VI rate reflect the high aluminum prices: for the 52-month period August 1986 through November 1990, the monthly VI rate was at the plateau or above for 38 months; and it was at the upper rate limit for 23 of the 38 months. *Id.*, 4.

In addition, the DSIs assert that the lower rate limit (the floor) of the VI rate will be substantially higher than BPA's opportunity cost of serving the aluminum smelters. They argue that California, as BPA's best market for surplus power, has sufficient resources on a statewide basis through 2001. Therefore, BPA's opportunity cost will approximate the cost of displacing California oil, gas, and coal resources or economy purchases from the inland Southwest. Given that BPA's realized nonfirm energy rates in the revenue analysis are lower than the VI rate lower rate limit demonstrates that BPA would expect to collect more revenue at the VI rate than in alternate markets. Schoenbeck, VI-91-E-DS-01, 12-13.

D. Summary

BPA's testimony is unrebutted that the proposed VI rate meets the two criteria for deciding that the rate should remain in place through the term of the VI rate contract. The implementation of the VI rate for the last 3 years of the contract term allows BPA to recover revenues and maintain a level of financial risk at least comparable to what would be expected at the IP rate. Continuing the VI rate through the VI contract term also helps the smelters cope with aluminum price volatility. The more stable aluminum smelter load that results from the VI rate aids BPA's financial, operational, and resource planning processes.

Moreover, BPA's unopposed testimony shows that the VI rate will not affect negatively BPA's ability to repay the Treasury and recover its total costs since BPA will adjust rates when current rates are not sufficient to recover all costs.

Finally, unrebutted testimony submitted by the DSIs demonstrates that over the 10-year period, August 1986-June 1996, the expected revenues

assuming a VI rate will be greater than expected revenues assuming the IP rate is in place. In addition, the DSIs forecast that over the 10-year period, the average VI rate is higher than the average IP rate.

Chapter III—Environmental Impacts

A. Introduction

The National Environmental Policy Act of 1969, 42 U.S.C. 4321, requires that environmental impact analyses be performed before making decisions on major Federal actions that significantly affect the environment. In April of 1986, BPA completed the DSI Options Final Environmental Impact Statement (DOE/EIS-0123F) (Final EIS), which analyzed the potential environmental effects of three options (actions) that BPA was considering at the time. The purpose of those options was to stabilize the electrical load of BPA's DSI customers in order to enhance BPA's revenue stability and facilitate resource planning. The three options were: (1) A variable rate to the aluminum smelter DSIs based on market prices for aluminum; (2) a link between the IP and PF rates (IP-PF rate link); and (3) a conservation/modernization (Con/Mod) program directed toward the aluminum smelter DSIs. These options were not alternatives to each other, since each could be implemented independently. BPA implemented all three options.

The Final EIS considered alternate forms of the VI rate as well as the no-action alternative. Alternatives considered in the Final EIS related to the values of defining the upper and lower pivot points; the upper and lower slopes; the maximum and minimum rate limits; and different ways to adjust the rate over time. In the 1986 VI ROD, both the proposed VI rate and the loan maintenance alternatives were found to be environmentally preferable. The Administrator selected one of these two alternatives; the VI rate.

The following discussion pertains to only the adoption of the VI rate for the additional 3-year term. The IP-PF rate link was extended through rate periods commencing on or before the termination of the VI rate contracts. Administrator's Record of Decision, 1990 IP-PF Rate Link Extension (November 1990). The Con/Mod program is closed to new applications for participation, though payments to the participating DSI aluminum smelters for energy savings will continue for a number of years.

In proposing to adopt a rate nearly identical to the existing VI rate, BPA considered the same potential impacts identified in the EIS that were considered in the initial implementation of the VI rate when it was adopted in 1986, including cumulative impacts of the three actions.

B. Environmental Impact Considerations

The Final EIS still serves as an adequate basis for providing environmental information relative to a decision to adopt a substantially similar rate. No supplement to the Final EIS is necessary. The rate selected by the 1986 VI ROD incorporated as one of its provisions a 10-year term, including June 30, 1996. Continuation of the VI rate from 1993 to 1996 will result in the rate being effective only the length of time contemplated by the 1986 VI ROD as well as by the Final EIS. 1986 VI ROD, 137; Final EIS, 92.

This decision does not require a consideration of alternatives other than to extend the rate in its current form for the remainder of the VI contracts or to terminate the current rate. No party expressed a view that other alternatives should be considered.

Experience with the VI rate, coupled with the IP-PF rate link and the Con/Mod program, has demonstrated a stabilizing effect on DSI loads, as was projected in the Final EIS and as was intended. Moreover, the VI rate was among the factors that enabled the smelter at The Dalles, Oregon, to reopen, as was intended, and which the analysis in the Final EIS indicated was a possibility. To the extent that the VI rate has stabilized DSI loan, socioeconomic benefits projected by the Final EIS have been achieved. Closure of certain at-risk DSIs, which presumably the VI rate helped prevent, would have resulted in locally significant adverse socioeconomic effects in some smaller communities in which the DSI plant was and is a major economic force in terms of employment, payment of taxes and so on.

Adoption of the VI rate for an additional 3 years would continue to serve the purpose of stabilizing aluminum smelter loads. A decision to retain the rate would be environmentally preferable to letting the rate terminate, because the socioeconomic benefits provided by the aluminum smelters outweigh the adverse effects of the smelters on the physical environment.

The DSIs continue to cause adverse effects on the physical environment (for example, discharge of air and water pollutants, production of solid waste, and the like) as reported in the Final EIS. But these effects are regulated by appropriate State, Federal, and local environmental agencies and are governed by environmental laws, regulations, and permit conditions. Specific environmental problems reported in the Final EIS, primarily the smelters' past solid waste disposal practices, are being dealt with, resulting in a reduction in environmental impacts. The Final EIS included consideration of the entire range of expected physical and socioeconomic effects of the operation of the aluminum smelters. It addressed both impacts that would result from operation of the plants at their full production capacity and impacts that would result from their closure. Thus the continued stabilizing effect on DSI loads, a consequence of extending the VI rate, is not expected to result in environmental impacts beyond the range of potential impacts projected for the aluminum smelter DSIs in the Final EIS.

In the long term, preserving aluminum smelter electrical load means that new generating or conservation resources might be needed sooner. Impacts of the VI rate on operation of the region's dams and reservoirs, and specifically on anadromous fish, could be either adverse or beneficial depending on circumstances such as the time of year and river flow. Spilling water past turbines in the right quantities and the right times of the year is important to the survival rates of downstream migrating fish. Too much spill, however, causes nitrogen supersaturation of the water which is fatal to fish. Final EIS, 76-77. The impacts of the VI rate alternatives, however, cannot be divorced completely from the impacts of other actions BPA may take to market the power made available if aluminum smelter loads decrease.

The Final EIS found that none of the VI rate alternatives had other than insignificant effects of BPA's rates to its other customers. Final EIS, 91-94, 100-102.

Chapter IV—Decision

The proposal to adopt a rate virtually identical to the existing VI rate is consistent with the rate directives of the Northwest Power Act and other applicable legislation. The rate has provided and will continue to provide BPA with increased revenue stability, and therefore enhances BPA's ability to meet its planned payments to the U.S. Treasury. Adoption of the VI rate also will help the aluminum smelter DSIs maintain their competitiveness in the aluminum market. In addition, based on the analysis in the Final EIS, the rate is not expected to result in environmental impacts which are unforeseen or unacceptable. Finally, as evidenced by

the absence of opposition to BPA's proposal, BPA's customer groups support the proposed VI rate.

In performing his duties under Northwest Power Act Section 7(i), the Hearing Officer has assured that a full and fair evidentiary hearing, open to all interested parties and participants, has been conducted on all issues relevant to this case.

Based upon the record in this proceeding, I adopt the VI rate schedule, shown in the Attachment, for the period July 1, 1993, through June 30, 1996.

Issued at Portland, Oregon, on January 30, 1991.

James J. Jura,
Administrator.

Attachment—Proposed Variable Industrial Power Rate (VI-91)

Section I. Availability

This schedule is available to DSI customers for purchases under the Power Sales Contract implementing the VI Rate Schedule (Variable Rate Contract) of: (1) Industrial Firm Power; and (2) Auxiliary Power if requested by the DSI customer and made available by BPA. This schedule is available only for that portion of a DSI's load used in primary aluminum reduction including associated administrative facilities, if any. By virtue of incorporation of this rae schedule and associated GRSPs in the Variable Rate Contract, DSIs electing to purchase power under this rate schedule contractually agree to the terms and conditions of this rate schedule. A DSI further agrees to waive, for that portion of their load designated to purchase power at the VI rate, all rights they might otherwise have to purchase power at the Industrial Firm Power Rate Schedule for the duration of the Variable Rate Contract. Sales under this schedule are made subject to BPA's GRSPs effective October 1, 1989, and as revised in subsequent wholesale rate filings.

Section II. Term of the Rate

This rate schedule shall take effect on July 1, 1993, and shall terminate at midnight June 30, 1996.

Section III. Rate

A. Base Rate Charges Subject to Rate Case Adjustments

The following base rates shall be adjusted on Rate Adjustment Dates beginning October 1, 1991, following the procedures set forth in section VI.C. of this rate schedule, unless the Cost Recovery Adjustment Clause triggers, at which point the rates shall be adjusted following the procedures set forth in section VI.I. of this rate schedule. In addition, the Lower Rate also will be subject to a biennial adjustment pursuant to section VI.B. of this rate schedule. The formula to be used in the calculation of the monthly power bill is contained in section IV. A separate billing adjustment for the value of the reserves provided by purchasers of Industrial Firm Power is not contained in this rate schedule; the value of reserves credit has been included in the determination of the Plateau Energy Charge. On July 1, 1993, the base rates, as adjusted, shall be applied to purchases by DSI customers under the Variable Rate Contract. These rates shall continue to be adjusted, as descibed, through June 30, 1996.

1. *Base Variable Industrial Rate*—

a. Demand Charge: $5.33 per kilowatt of billing demand occurring during the Peak Period. No demand charge is applied during Offpeak Period hours.

b. Plateau Energy Charge: 16.1 mills per kilowatthour of billing energy.

2. *First Quartile Service Discount*—0.5 mills per kilowatthour of billing energy.

3. *Lower Rate Limit*—10.3 mills per kilowatthour of billing energy.

4. *Upper Rate Limit*—21.9 mills per kilowatthour of billing energy.

B. *Base Rate Parameters Subject to Annual Adjustments*

The following base rate parameters will be adjusted annually starting on July 1, 1991, and every July 1 thereafter, in accordance with the procedures contained in section VII.B. of the GRSPs. On July 1, 1993, the base rate parameters, as adjusted, shall be used in determining power bills for DSI customers purchasing power under the Variable Rate Contracts. These parameters shall continue to be adjusted as described through June 30, 1996.

1. *Lower Pivot Aluminum Price*—68.5 cents per pound.

2. *Upper Pivot Aluminum Price*—79.6 cents per pound.

Section IV. Formula

The Variable Industrial Power rate is a formula rate tied to the U.S. market price of aluminum. Under this rate schedule, the monthly energy charge varies in response to changes in the average price of aluminum in U.S. markets.

A. Demand Charge

1. The Demand Charge, as stated in section III.A.1.a. of this rate schedule, remains constant over all aluminum prices. The demand charge is applied to billing demand occurring during all Peak Period hours for all billing months.

2. No demand charge during Offpeak Period hours.

B. Energy Charge

1. *Plateau Energy Charge*—

When the monthly billing aluminum price (described in section VII.A. of the GRSPs) is between the Lower Pivot Aluminum Price and the Upper Pivot Aluminum Price inclusive (as stated in sections III.B.1. and III.B.2. of this rate schedule), the monthly energy charge shall be the Plateau Energy Charge as stated in section III.A.1.b. of this rate schedule.

2. *Reductions to Plateau Energy Charge*—

When the monthly billing aluminum price is less than the Lower Pivot Aluminum Price, the monthly energy charge shall be the greater of:

a. The Plateau Energy Charge − (LP − MAP) * (LS)

where:

LP = the Lower Pivot Aluminum Price as stated in section III.B.1. of this rate schedule.

MAP = the monthly billing aluminum price in cents per pound determined pursuant to section VII.A. of the GRSPs

LS = lower slope =

$$\frac{\text{1 mill per kilowatthour}}{\text{1 cent per pound}}$$

or

b. the Lower Rate Limit as stated in section III.A.3. of this rate schedule.

3. *Increases to Plateau Energy Charge*—

When the monthly billing aluminum price is greater than the Upper Pivot Aluminum Price, the monthly energy charge shall be the lesser of:

a. The Plateau Energy Charge + (Map − UP) * (US)

where:

MAP = the monthly billing aluminum price in cents per pound, as determined according to section VII.A. of the GRSPs.

UP = the Upper Pivot Aluminum Price as stated in section III.B.2. of this rate schedule.

US = upper slope =

$$\frac{\text{0.75 mills per kilowatthour}}{\text{1 cent per pound}}$$

or

b. the Upper Rate Limit, as stated in section III.A.4. of this rate schedule.

Section V. Billing Factors

A. Billing Demand

1. *Billing Demand for Customers Whose Entire BPA Load is Served at the VI Rate—*

The billing demand for power purchased shall be the BPA Operating Level during the Peak Period as adjusted for power factor. If there is more than one BPA Operating Level during the Peak Period within a billing month, the billing demand shall be a weighted average of the BPA Operating Levels during the Peak Period for the billing month. The BPA Operating Level is defined in section III.A.10. of the GRSPs.

2. *Billing Demand for Customers When Only a Portion of Their Total BPA Load is Served at the VI Rate—*

The Billing Demand shall be the portion of the BPA Operating Level attributable to the VI rate as determined by the method specified in the Variable Rate Contract.

3. *Billing Demand During Periods of Transitional Service—*

If BPA has agreed, pursuant to section 4 of the DSI power sales contract, to sell Industrial Firm Power on a daily demand basis (transitional service), sections V.A.1. and V.A.2. of the rate schedule shall not apply, and BPA shall bill the purchaser in accordance with the provisions of section V.C. of the GRSPs.

B. *Billing Energy—*

The billing energy for power purchased shall be the Measured Energy for the billing month, minus any kilowatthours on which BPA assesses the charge for unauthorized increase.

Section VI. Other Adjustments and Special Provisions

A. Lower and Upper Pivot Aluminum Prices

Effective July 1, 1991, and every July 1 thereafter, the Lower and Upper Pivot Aluminum Prices set forth in section III.B. of the rate schedule shall be adjusted following the procedures set forth in section VII.B. of the GRSPs. The adjusted Lower and Upper Pivot Aluminum Prices shall supersede the Lower and Upper Pivot Aluminum Prices contained in section III.B. of the rate schedule. The revised Lower and Upper Pivot Aluminum Prices shall be used for billing purposes and subsequent adjustments to the Lower and Upper Pivot Aluminum Prices.

B. Lower Rate Limit

On July 1, 1992, and July 1, 1994, the Lower Rate Limit as stated in section III.A.3. shall be increased by 1 mill per Kilowatthour. The revised Lower Rate Limit shall supersede the Lower Rate Limit as stated in section III.A.3. of the rate schedule. This increase is in addition to rate adjustment increases in the Lower Rate Limit described in section VI.C. of this rate schedule. In the event that a rate adjustment date and the annual adjustment date occur simultaneously, the Lower Rate Limit shall be adjusted first for changes in the Plateau Energy Charge pursuant to section VI.C. of this rate schedule, and then increased by 1 mill per kilowatthour. The revised Lower Rate Limit shall be used for billing purposes and subsequent rate adjustments.

C. Rate Adjustments

The overall rate level of this rate shall be subject to adjustment in BPA's general wholesale power rate case following the procedures and directives of the Northwest Power Act. The overall rate level consists of the Demand Charge, Plateau Energy Charge, and First Quartile Service Adjustment contained in sections III.A.1. and III.A.2.; these shall be adjusted by a uniform percentage based on the percentage change in the overall rate level. The Lower and Upper Rate Limits as stated in sections III.A.3. and III.A.4. of this rate schedule shall be adjusted by an amount equal to the change, in mills per kilowatthour, in the Plateau Energy Charge. The Lower and Upper Pivot Aluminum Prices shall not be adjusted in the rate case; rather, they shall be adjusted pursuant to the procedures described in section VII.B. of the GRSPs. The lower and upper slopes shall not be adjusted. The rate for unauthorized increase shall be separately determined in each rate case.

D. Discount for Quality of First Quartile Service

If a purchaser requests First Quartile service with other than Surplus Firm Energy Load Carrying Capability, a discount contained in section III.A.2. of this rate schedule shall be granted. This billing credit shall be applied to the monthly billing energy under section V.B. for all power purchased under this rate schedule. No credit shall be applied to those purchases subject to unauthorized increase charges under section VI.F. of this rate schedule. To qualify for the First Quartile Discount, the purchaser must request discounted rate service in writing by April 2 of each calendar year. By virtue of making such request, the Purchaser is agreeing to accept the level and quality of First Quartile service described in section 6 of the Variable Rate Contract. Such acceptance includes the waiver of contract rights provided in section 6.a(2)(a) of said contract.

E. Curtailments

BPA shall charge the customer for curtailments of the lower three quartiles in accordance with the provisions of section 9 of the power sales contract and the provisions contained in the Variable Rate Contract.

F. Unauthorized Increase

1. *Rate for Unauthorized Increase:* 67.3 mills per kilowatthour.

2. *Application of the Charge—*

During any billing month, BPA may assess the unauthorized increase charge on the number of kilowatthours associated with the DSI Measured Demand in any one 60-minute clock-hour, before adjustment for power factor, that exceed the BPA Operating Level for that clock-hour, regardless of whether such Measured Demand occurs during the Peak or Offpeak Period.

G. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1. of the GRSPs. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent.

To make the power factor adjustment, BPA shall increase the BPA Operating Level by 1 percentage point for each percentage point or major fraction thereof (0.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

H. Outage Credit

Pursuant to section 7 of the General Contract Provisions, BPA shall provide an outage credit to any DSI to whom BPA is unable to deliver the full billing demand during that billing month due to an outage on the facilities used by BPA to deliver Industrial Firm Power. Such credit shall not be provided if BPA is able to serve the DSI's load through the use of alternative facilities or if the outage is for less than 30 minutes. The amount of the credit shall be calculated according to the provisions of section III.C.2. of the GRSPs.

I. Cost Recovery Adjustment Clause

The Cost Recovery Adjustment Clause described in the GRSPs in effect July 1, 1993, to June 30, 1996, shall be

applied to all power purchases under this rate schedule consistent with the procedures to adjust the VI rate and the provisions of the Variable Rate Contract.

Section VII. Resource Cost Contribution

BPA has made the following determinations:

A. The approximate cost contribution of different resource categories to the VI-91 rate is 99.3 percent Exchange and 0.7 percent New Resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 17.7 mills per kilowatthour.

C. The forecasted cost of resources to meet load growth is 28.7 mills per kilowatthour.

Proposed GRSPs Associated With the VI Rate Schedule

Section VII. Variable Industrial Rate Parameters and Adjustments

A. Monthly Average Aluminum Price Determination

1. *Calcualtion of the Monthly Billing Aluminum Price—*

The monthly billing aluminum price shall be determined by BPA for each billing month. For purposes of this rate schedule, the monthly billing aluminum price shall be based on the average price of aluminum in United States (U.S.) markets during the third calendar month prior to the billing month. The average price of aluminum in U.S. markets shall be defined as the average U.S. Transaction Price reported for the month by "Metals Week," in cents per pound, rounded to the nearest tenth of a cent.

2. *Notification of the Monthly Average Aluminum Price—*

BPA shall provide, 45 days prior to the billing month, written notification to purchasers under this rate schedule of the monthly billing aluminum price to be used for billing purposes. Upon written request supporting documentation shall be provided.

3. *Changes in Aluminum Price Indicators—*

In the event that BPA determines that factors outside its control render the monthly average U.S. Transaction Price unusable as an approximation of U.S. market prices, BPA may develop and substitute another indicator for prices in U.S. markets. BPA shall notify interested parties of its intent to do so at least 120 days prior to the billing month in which the change would become effective. In this notification, BPA shall explain the reason for the substitution and specify the replacement indicator it intends to use. BPA also shall describe the methodology to determine the monthly billing aluminum price to be used for billing purposes under this rate schedule and shall provide the necessary data to be used in the calculation. Interested persons will have until close of business 3 weeks from the date of the notification to provide comments. Consideration of comments and more current information may cause the final methodology and the substitute aluminum price index to differ from those proposed. BPA shall notify all affected parties, and those parties that submitted comments, of its final determination 90 days prior to the billing month the new indicator shall be effective.

B. Annual Adjustments to the Lower and Upper Pivot Aluminum Prices

On July 1, 1991, and every July 1 thereafter, the Lower and Upper Pivot Aluminum Prices, as stated in section III.B of the rate schedule, shall be subject to change for billing purposes as herein described. The term "annual adjustment date" shall refer to July 1 of each year.

1. *Implementation Procedures—*

Beginning in 1991, and every year thereafter, prior to April 1 of that year, BPA shall provide the purchasers under this rate schedule preliminary written estimates of proposed adjustments to the Lower and Upper Pivot Aluminum Prices. By the last working day of the month of April, BPA shall notify interested parties in writing of BPA's revised determination concerning changes to the Lower and Upper Pivot Aluminum Prices. BPA shall describe how the adjustments were determined and provide the data used in the calculations. In addition to written notification, BPA may, but is not obligated to, hold a public comment forum to clarify its determination and solicit comments. Interested persons may submit comments on the determinatioin to BPA and other parties. Comments will be accepted until close of business on the last working Friday in May. Consideration of comments and more current informatiion may result in the final adjustment differing from the proposed adjustment. By June 30, of each year, BPA shall notify all VI purchasers, those parties that submitted comments, and parties that requested notification, of the final determination.

2. *Annual Adjustment Procedures—*

a. *Annual Adjustment of the Lower Pivot Aluminum Price.* Beginning with the July 1, 1991, annual adjustment date, for each year that the VI rate is in effect, the Lower Pivot Aluminum Price as stated in section III.B.1. of the rate schedule shall be adjusted on the July 1 annual adjustment date. The Lower Pivot Aluminum Price shall be revised by multiplying 59 cents per pound by the Cost Escalation Index described in section BII.B.3.b. of these GRSPs and rounded to the nearest tenth of a cent. The revised Lower Pivot Aluminum Price shall replace the Lower Pivot Aluminum Price as stated in section III.B.1. of the rate schedule and shall be used to determine the energy rate in the subsequent 12 billing months.

b. *Annual Adjustment of the Upper Pivot Aluminum Price.* For each year that the Variable Industrial rate is in effect, the Upper Pivot Aluminum Price as stated in section III.B.2. of the rate schedule shall be adjusted on the July 1 annual adjustment date. The Upper Pivot Aluminum Price will be adjusted such that the Average Historical Alumium Price described in section VII.B.4. of these GRSPs is the midpoint between the adjusted Upper Pivot Alumium Price and the Average Historical Lower Pivot Alumium Price described in section VII.B.5. below, except as limited to the greater of 65 cents per pound or the adjusted Lower Pivot Point for the year.

The Upper Pivot Alumium Price shall equal the greater of:

(1) (2)*(AA)—ALP:

where:

AAP = the Average Historical Aluminum Price described in section BII.B.4. of these GRSPs.

ALP = the Average Historical Lower Pivot Aluminum Price described in section VII.B.5. of these GRSPs.

(2) 65.0 cents per pound escalated to current dollars using the Cost Escalator for the Upper Pivot Aluminum Price described in section VII.B.3.c. of these GRSPs.

or

(3) The adjusted Lower Pivot Aluminum Price for the year.

The revised Upper Pivot Aluminum Price shall supersede the Upper Pivot Alumium Price as stated in section III.B.2. of the rate schedule and shall be used to determine the energy rate in the subsequent 12 months.

3. *Cost Escalators—*

a. The cost indices described below shall be used in calculating the appropriate cost escalators. Each index shall be rounded to the nearest one-tenth of a percent, or three significant places.

(1) *Electricity Cost Index—*

The average VI rate in mills per kilowatthour based on the Plateau Energy Charge and the Discount for Quality of First Quartile Service in effect on the April 1 preceding the annual adjustment date and a load factor of 98.5 percent; divided by 22.8 mills per kilowatthour (the average VI-86 rate

assuming the plateau energy charge and the Discount for Quality of First Quartile Service in 1986).

(2) *Labor Cost Index*—

The annual average hourly earnings for the U.S. primary aluminum industry (SIC 3334) over the previous complete calendar year, from the Employment and Earnings, published by the U.S. Department of Labor, Bureau of Labor Statistics (BLS), divided by $14.20 per hour (the value of SIC 3334 earnings reported for 1985).

(3) *Alumina Cost Index*—

The annual average of the monthly billing aluminum prices described in section VII.A of the GRSPs for the previous 1-year period beginning July 1 through June 30 divided by 50.8 cents per pound (the average U.S. Transaction price over the period April 1985 through March 1986).

(4) *Other Costs Index*—

The annual average GNP Implicit Price Deflator for the previous complete calendar year, as published by the U.S. Department of Commerce, Bureau of Economic Analysis, divided by 1.109 (the value of the GNP Implicit Price Deflator for 1985 with 1982=1.000).

In the event that the indices delineated above are discontinued or revised in a manner that BPA determines renders them unusable for calculating a consistent cost index, BPA will adjust or substitute another similar price index, following advance notification and opportunity for public comments as described in section VII.B.1 of these GRSPs.

b. The Cost Escalator for the Lower Pivot Aluminum Price shall be a weighted average of the four indices contained in section VII.B.3.a above. The following weights shall be assigned each index:

Electricity Cost Index—.30
Labor Cost Index—.20
Alumina Cost Index—.20
Other Costs Index—.30

c. The Cost Escalator for the Upper Pivot Aluminum Price shall be a weighted average of the Electricity Cost and Other Cost Escalators as stated in sections VII.B.3.a.(1) and VII.B.3.a.(4) above. The following weights shall be assigned each index:

Electricity Cost Index—.25
Other Costs Index—.75

4. *Average Historical Aluminum Price*—

Prior to the July 1, 1991, annual adjustment date and every annual adjustment date thereafter, an average historical aluminum price shall be calculated for the period the VI rate has been in effect beginning August 1986. The average historical aluminum price shall be determined following the procedures set forth below:

a. Each monthly billing aluminum price determined pursuant to section VII.A of these GRSPs for the period August 1, 1986, through June 30 immediately preceding the annual adjustment date, shall be escalated to the current year dollars using the Price Deflator procedures described in section VII.B.6 below.

b. The sum of the escalated monthly billing aluminum prices shall be divided by the number of months in the period and rounded to the nearest tenth of a cent to obtain the Average Historical Aluminum Price.

5. *Average Historical Lower Pivot Aluminum Price*—

Prior to the July 1, 1991, annual adjustment date and every annual adjustment date thereafter, the average of the Lower Pivot Aluminum Prices for the period VI rate has been in effect beginning August 1986, shall be calculated following the procedures set forth below:

a. The Lower Pivot Aluminum Price in each month for the period August 1, 1986, through June 30 of the calendar year preceding the annual adjustment date, shall be escalated to the current year's dollars using the Price Deflator procedures described in section VII.B.6 below.

b. The sum of the escalated monthly Lower Pivot Aluminum Prices shall be divided by the number of months in the perod, and rounded to the nearest tenth of a cent to obtain an Average Historical Lower Pivot Aluminum Price.

6. *Price Deflator Procedures*—

For purposes of converting nominal dollars to real dollars in the calculation of the Average Historical Aluminum Price and the Average Historical Lower Pivot Aluminum Price, the following Price Deflator procedures shall be used:

a. Monthly billing aluminum prices and Lower Pivot Aluminum Prices for any calendar months July through December shall be inflated by multiplying the price by the ratio of the GNP Implicit Price Deflator for the calendar year prior to the annual adjustment date divided by the Implicit Price Deflator for the calendar year in which the price occurred.

b. Monthly billing aluminum prices and Lower Pivot Aluminum Prices for any calendar months January through June shall be inflated by multiplying the price by the ratio of the Implicit Price Deflator for the calendar year prior to the annual adjustment date divided by the Implicit Price Deflator for the calendar year prior to the year in which the price occurred. Each price shall be rounded to the nearest tenth of a cent.

[FR Doc. 91-8185 Filed 4-5-91; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No.s 2574-007—Maine, 2322-006—Maine, 2325-003—Maine, 2552-003—Maine, 2611-009—Maine, 5073—016—Maine]

Merimil Limited Partnership, Central Maine Power Company, Scott Paper Company and UAH—Hydro Kennebec Limited Partnership, Benton Falls Associates; Availability of Environmental Assessment

April 1, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47190), the Office of Hydropower Licensing (OHL) has reviewed the proposal to amend the licenses for the Lockwood, Shawmut, Weston, Fort Halifax, Hydro-Kennebec and Benton Falls Projects, FERC Project Nos. 2574, 2322, 2325, 2552, 2611, and 5073, respectively, by incorporating into the licenses the provisions of an agreement between the State of Maine fishery agencies and the licensees to restore anadromous fish to the Kennebec River. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment proposals will not constitute a major federal action significantly affecting the quality of the human environment.

Lois D. Cashell,
Secretary.

[FR Doc. 91-8109 Filed 4-5-91; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 8263-004 Connecticut]

Summit Hydropower; Availability of Environmental Assessment

April 1, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Falls Mill Dams Hydroelectric Project located on the Yantic River in

New London County, near Norwich, Connecticut, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8108 Filed 4-05-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9273-009 New York]

Upstate Hydro Associates; Availability of Environmental Assessment

April 1, 1991.

In accordance with the National Environmental Policy of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application to amend the license for the Seneca Mills Project to construct a new dam immediately downstream of the existing dam. The project is located on the Keuka Lake Outlet in Yates County, New York. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment of license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Office at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8110 Filed 4-5-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1715-006, [et al.]

Hydroelectric Applications. (Springville City Corp., Utah, et al.); Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of application:* Conduit Exemption

b. *Project no.:* 1715-006

c. *Date filed:* February 20, 1991

d. *Applicant:* Springville City Corporation, Utah

e. *Name of project:* Spring Creek Hydroelectric Project

f. *Location:* On the City of Springville's water supply distribution system in Utah County, Utah

g. *Filed pursuant to:* Federal Power Act, section 30 16 U.S.C. 791 (a)- 825(r)

h. *Applicant contact:* Cal Baxter, Electric Superintendent, 50 South Main St., Springville, UT 83663, (801) 489-2752.

i. *FERC contact:* Ms. Deborah Frazier-Stutely (202) 219-2842

j. *Comment date:* May 15, 1991

k. *Description of project:* The existing, operating project consists of: (1) A powerhouse containing a 500-kW impulse turbine and induction generator; (2) a tailrace discharging project flows into the City's 2.0-million-gallon storage tank; (3) a transmission line connection; and (4) appurtenant facilities. The average annual generation for the project is 725,000kWh.

l. *Purpose of project:* The energy produced by the project will continue to be used by the City of Springville, Utah.

m. This notice also consists of the following standard paragraphs: B, C, and D3b.

a. *Type of application:* Amendment of License.

b. *Project no.:* 2727-024

c. *Date filed:* February 25, 1991.

d. *Applicant:* Bangor Hydro-Electric Company.

e. *Name of project:* Ellsworth Project.

f. *Location:* The project is located on the Union River, a navigable waterway of the United States, in Hancock County, Maine.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant contact:* Mr. Douglas S. Morrell, Manager, Production and Plant Engineering, Bangor Hydro-Electric Company, 33 State Street, P.O. Box 932, Bangor, ME 04401, (207) 945-5621.

i. *FERC contact:* Kenneth Fearon, (202) 219-2657.

j. *Comment date:* May 10, 1991.

k. *Description of amendment:* The licensee proposes to change the authorized project boundary to include an additional 2 acres of land at the right abutment of the Graham Lake Dam for permanent use by the project. In addition, the temporary use of approximately 14 acres of land is necessary for construction related activities.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

a. *Type of application:* Transfer of License

b. *Project no.:* 2756-019

c. *Date filed:* March 15, 1991

d. *Applicant:* Burlington Electric Light Department and Winooski One Partnership

e. *Name of project:* Chace Mill

f. *Location:* On the Winooski River in the City of Winooski and the City of Burlington, Chittenden County, Vermont

g. *Filed pursuant to:* Federal Power Act 17 U.S.C. 791(a) - 825(r)

h. *Applicant contact:* Peter C. Kissel, 1225 Eye Street NW., suite 1200, Washington, DC 20005, (202) 628-3300.

i. *FERC contact:* Charles T. Raabe (202) 219-2811

j. *Comment date:* May 9, 1991

k. *Description of transfer:* The Burlington Electric Light Department and Winooski One Partnership (co-licensees) propose to transfer the Winooski One Partnership interests to Chittenden Hydro Partners in order to facilitate financing to construct the project. The license was issued November 3, 1988.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

a. *Type of application:* Amendment of Exemption.

b. *Project no.:* 3605-012.

c. *Date filed:* February 25, 1991.

d. *Applicant:* Mohawk Paper Mills, Inc. and Fourth Branch Associates.

e. *Name of project:* Mohawk Paper Mills Project.

f. *Location:* The project is located on the Mohawk River in Saratoga County, New York.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant contact:* Stephen Burke, Fourth Branch Associates, P.O. Box 870, Guilderland, NY 12084, (518) 456-7712.

i. *FERC contact:* A. K. Das, (202) 219-2665.

j. *Comment date:* May 10, 1991.

k. *Description of amendment:* The exemptee proposes to increase the height of flashboards and raise the normal water surface from USGS elevation 29.3 feet to 31.5 feet.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

a. *Type of application:* Amendment of License.

b. *Project no.:* 3939-009.

c. *Date filed:* March 15, 1991.

d. *Applicant:* City of Denton Municipal Utilities.

e. *Name of project:* Ray Roberts Hydroelectric Dam Project.

f. *Location:* Denton County, Texas.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contract:* City of Denton, Texas, Attn: Mr. R. E. Nelson, P.E., Executive Director of Utilities, Utility Administration Department, Municipal Building, 215 East McKinney, Denton, TX 76201, (817) 566–8230.

i. *FERC contact:* Dan Hayes, (202) 219–2660.

j. *Comment date:* May 17, 1991.

k. *Description of project:* The City of Denton Municipal Utilities proposes to amend its license for the Ray Roberts Hydroelectric Project to delete article 38, which requires the licensee to construct a fishing access platform near the project tailwaters.

l. This notice also consists of the following standrd paragraphs: B, C, and D2.

a. *Type of application:* Surrender of License.

b. *Project no.:* 6727–013.

c. *Date filed:* February 15, 1991.

d. *Applicant:* Northwest Power Company, Inc.

e. *Name of project:* Miner's Tunnel Hydroelectric Project.

f. *Location:* On the South Fork of the Yuba River in Nevada County, California.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant:* Mr. James R. Doolittle, Vice-President, Northwest Power Company, Inc., P.O. Box 565, Coloma, CA 95613, (916) 626–9328.

i. *FERC contact:* Ms. Deborah Frazier-Stutely at (202) 219–2842

j. *Comment date:* May 3, 1991

k. *Description of proposed amendment:* The proposed project for which the license is being surrendered would have consisted of: (1) A 12-foot-high, 70-foot-long concrete diversion structure; (2) a 400-foot-long concrete forebay wall; (3) a tunnel intake structure; (4) an existing 12-foot-diameter, 880-foot-long tunnel; (5) an 8-foot-diameter, 60-foot-long steel penstock; (6) a powerhouse containing a single generating unit rated at 2.5 MW; (7) 4.16-kV generator leads; (8) a 1-mile-long 4.16-kV underground cable; and (9) appurtenant facilities.

The licensee states the project is being surrendered because it lost its Standard Offer 4 Contract with Pacific Gas and Electric Company and has determined that is is no longer economical and in its best interest to pursue the project. No construction has begun.

l. *Purpose of project:* B, C, and D2.

a. *Type of application:* Material Amendment of License Application.

b. *Project no.:* 7105–005.

c. *Date filed:* February 5, 1991 (formerly filed February 25, 1985).

d. *Applicant:* Davenport Hydro Associates (formerly Davenport-Rock Island Associates).

e. *Name of project:* Davenport Hydro Project.

f. *Location:* On the Mississippi River near Davenport, in Scott County, Iowa, and in Arsenal Island, Rock Island County, Illinois.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. David B. Ward, Flood & Ward, 1000 Potomac Street, NW., Washington, DC 20007, (202) 298–6910.

i. *FERC contact:* Ed Lee (202) 219–2809.

j. *Comment date:* May 29, 1991.

k. *Description of project:* The run-of-river project would utilize the existing U.S. Army Corps of Engineers' Mississippi River Lock and Dam No. 15 and would consist of: (1) A proposed reinforced concrete gated forebay connecting the dam and proposed powerhouse; (2) a proposed powerhouse approximately 180 feet wide and 140 feet long and containing four 7–MW generators for a total installed capacity of 28 MW; (3) a proposed tailrace channel approximately 250 feet wide and 160 feet long; (4) a proposed 1.5-mile-long, 69-kV transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual generation would be 170 GWh. Project energy generated would be sold to a local public utility company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

8a. *Type of application:* Amendment of License.

b. *Project no.:* 9175–013

c. *Date filed:* February 27, 1991.

d. *Applicant:* Rivers Electric Co., Inc.

e. *Name of project:* Eddyville Falls Dam Project.

f. *Location:* The project is located in Eddyville, on Rondout Creek, Ulster County, New York.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Charles Pepe, Rivers Electric Co., Inc., P.O. Box 707, Alpine, NJ 07620, (201) 768–4040.

i. *FERC contact:* A.K. Das, (202) 219–2665.

j. *Comment date:* May 6, 1991.

k. *Description of amendment:* The licensee proposes to move the powerhouse from the north to the south side of the creek, relocate the transmission line and the recreational facilities.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

9a. *Type of application:* Surrender of License.

b. *Project no.:* 9708–013.

c. *Date filed:* January 31, 1991.

d. *Applicant:* Rivers Electric Company, Inc.

e. *Name of project:* Cuddebackville Project.

f. *Location:* On the Neversink River in Orange County, New York.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. Charles R. Pepe, River Electric Company, Inc., 120 North Pascack Road, Spring Valley, NY 10977, (201) 768–4040.

i. *FERC contact:* Robert Bell (202) 219–2806.

j. *Comment date:* May 15, 1991.

k. *Description of project:* The proposed project would have consisted of: (1) The existing Cuddebackville Dam is two sections separated by an island; a 9-foot-high, 150-foot-long gravity section, and a 9-foot-high, 12-foot-long stoplog section; (2) an impoundment having a surface area of 2 acres with negligible storage, and a normal water surface elevation of 540 feet msl; (3) a proposed canal intake; (4) a proposed 400-foot-long power canal; (5) a proposed penstock intake; (6) a proposed 350-foot-long; 7-foot-diameter steel penstock; (7) a proposed powerhouse with three generating units having a total installed capacity of 360-kW; (8) a proposed tailrace; (9) a proposed 50-foot-long, 4.8-kV overhead transmission line; and (10) appurtenant facilities. The licensee is surrendering because the proposed project is no longer economically feasible. No construction has taken place at this site.

l. This notice also consists of the following standard paragraphs: B, C, & D2.

10a. *Type of application:* Transfer of License.

b. *Project no.:* 9885–022.

c. *Date filed:* February 12, 1991.

d. *Applicant:* Environmental Energy Company (Transferor) and Marysville Hydro Partners (Transferee).

e. *Name of project:* Falls River Hydroelectric.

f. *Location:* On Falls River near the town of Ashton, in Fremont County, Idaho.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. Grant Durtschi, Project Manager, Marysville Hydro partners, 550 Linden

Drive, Idaho Falls, Idaho 83401, (208) 522–8069.

Mr. Blaine Graff, Ida-West Energy Company, 333 N. 13th Street, Boise, Idaho 83702, (208) 336–4254.

i. *FERC contact:* Mr. Surender M. Yepuri, (202) 219–2847.

j. *Comment date:* May 18, 1991.

k. *Description of Proposed Action:* On May 25, 1989, a major license was issued to Environmental Energy Company for the construction, operation, and maintenance of the Falls River Hydroelectric Project. Environmental Energy Company now proposes to transfer its interests and obligations under the license to Marysville Hydro Partners. The proposed transfer will not result in any changes to the development. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. This notice also consists of the following standard paragraphs: B and C.

a. *Type of application:* Amended Application for Preliminary Permit. This notice supercedes the notice issued January 11, 1991.

b. *Project no:* 11046–000.

c. *Date filed:* November 9, 1990.

d. *Applicant:* Green Island Dam Hydro Watt Associates.

e. *Name of project:* Green Island Dam.

f. *Location:* At the U.S. Army Corps of Engineers Green Island Dam on the Hudson River near Green Island in Albany and Rensselaer Counties, New York.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. Paul V. Nolan, 6219 N. 19th Street, Arlington, VA 22205, 703–534–5509.

i. *FERC contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Comment date:* April 29, 1991.

k. *Description of project:* The proposed run-of-river project would consist of: (1) A gated intake structure to control flow to the powerhouse; (2) a 220-foot-long forebay to be located adjacent to the west lock wall; (3) a powerhouse containing three to six generating units with a total installed capacity of 20 MW; (4) an 850-foot-long tailrace; and (5) a 0.4-mile-long transmission line. The applicant estimates the average annual energy production to be 50 GWh and the cost of the work to be performed under the preliminary permit to be $50,000. In its amendment, the applicant also proposes to study feasibility of locating the project on west side of the river and developing the excess capacity of the Green Island Project No. 13 owned and operated by Niagara Mohawk Power Corporation. The license for Project No. 13 expires on March 2, 2011. The project would be designed so that there will be no modification to or encroachment upon any existing civil structure which could be considered an impermissible alteration of an existing license.

l. *Purpose of project:* The power produced would be sold to a local power company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

12a. *Type of application:* Preliminary Permit.

b. *Project no.:* 11057–000.

c. *Date filed:* December 4, 1990.

d. *Applicant:* Roosevelt Water Conservation District.

e. *Name of project:* RWCD.

f. *Location:* On the turnout between the Central Arizona Project Salt-Gila Aquaduct and the RWCD Main Canal, in Maricopa County, Arizona. Township 2 N Range 7 W.

g. *Filed pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant contact:* Mr. Michael O. Leonard, Roosevelt Water Conservation District, P.O. Box 100, Higley, AZ 85236–0100, (602) 963–3414.

i. *FERC contact:* Michael Spencer at (202) 219–2846.

j. *Comment date:* June 6, 1991.

k. *Description of project:* The proposed project would utilize the existing pipeline and would consist of: (1) A powerhouse, containing one or more generating units with a combined capacity of 3,200 kW and an estimated average annual generation of 28.0 GWH; and (2) a 20-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $54,500.

l. *Propose of project:* Project power may be sold or used by the applicant.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

13a. *Type of application:* Preliminary Permit.

b. *Project no.:* 11063–000.

c. *Date filed:* December 18, 1990.

d. *Applicant:* Big Wood Canal Company/Lincoln Hydropower, Inc.

e. *Name of project:* Lincoln Bypass.

f. *Location:* At the Big Wood River, on lands administered by the Bureau of Land Management, on the Big Wood Canal Company's Canal System, in Lincoln County, Idaho. Township 4 S Range 18 E.

g. *Filed pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant contact:* Mr. David B. Van Otten, Lincoln Hydropower, Inc., 699 E. South Temple, suite 220, Salt Lake City, UT 84102, (801) 363–6111.

i. *FERC contact:* Michael Spencer at (202) 219–2846.

j. *Comment date:* May 30, 1991.

k. *Description of Project:* The proposed project would consist of: (1) An existing 12-foot-high concrete dam on the Big Wood River; (2) an existing 7.5-mile-long canal; (3) a 8-foot-high diversion dam at elevation 4,486 feet; (4) a 72-inch-diameter, 3,200-foot-long penstock; (5) a powerhouse containing a generating unit with a capacity of 3,800 kW, and discharging back into the canal; (6) a 5-mile-long transmission line; (7) a second development beginning with an existing diversion at station 175, on the canal; (8) a 51-inch-diameter, 16,000-foot-long penstock; (9) a powerhouse containing a generating unit with a capacity of 2,500 kW; and (10) a ¼-mile-long transmission line. The project will have an average annual generation of 20 GWh.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $120,000.

l. *Purpose of project:* Project power will be sold to Idaho Power Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

a. *Type of application:* Preliminary Permit.

b. *Project no.:* 110667–000.

c. *Date filed:* December 26, 1990.

d. *Applicant:* Genesee River Hydro Associates.

e. *Name of project:* Rochester Upper Falls.

f. *Location:* On the Genessee River in Monroe County, New York.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:*

David M. Coombe, Genesee River Hydro Associates, 2574 Riva Road, suite 21A, Annapolis, MD 21401, (301) 266–5799.

i. *FERC contact:* Robert Bell (202 219–2806.

j. *Comment date:* May 22, 1991.

k. *Description of project:* The proposed project would develop additional capacity at the existing Rochester Upper Falls Project, operated by Rochester Gas and Electric Company under license Project No. 2582, and would consist of: (1) The existing 10 to 12-foot-high, 300-foot-long dam; (2) the reservoir having a surface area of 100 acres with negligible storage and a normal water surface elevation of 483 feet msl, (3) a proposed gated intake; (4)

a proposed 400-foot-long, 14-foot diameter steel penstock; (5) a proposed powerhouse across the river from Rochester Gas and Electric's P-2582 powerhouse and containing two generating unit with a total installed capacity of 12 MW; (6) the existing tailrace; (7) a proposed 1000-foot-long, 13.2-kV transmission line; and (8) appurtenant facilities. The applicant estimates the average annual generation would be 32 Gwh and would be sold to the Rochester Gas and Electric Company. The applicant estimates that the cost of the studies to be performed under the terms of the permit would be $450,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

a. *Type of application:* Preliminary Permit.

b. *Project no.:* 11089-000.

c. *Date filed:* February 14, 1991.

d. *Applicant:* ERC Resources, Inc.

e. *Name of project:* Horsethief Canyon.

f. *Location:* On lands administered by the Bureau of Land Management, on the Colorado River, in Mesa County, Colorado. Township 10 S Range 103 W.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. §§791(a)-825(r).

h. *Applicant contact:*

Mr. Edward C. Rosar, ERC Consulting, 12687 West Cedar Drive, Suite 201, Houston, TX 77256-6571, (303) 980-9448.

i. *FERC contact:* Michael Spencer at (202) 219-2846.

j. *Comment date:* May 24, 1991.

k. *Description of project:* The proposed project would consist of: (1) a 45-foot-high roller compacted concrete dam; (2) a reservoir with a surface area of 820 acres and a gross storage of 15, 370 acre-feet; (3) four 84-inch-diameter, 80-foot-long penstocks; (4) a powerhouse containing 4 generating units with a combined capacity of 5,460 kW with an estimated average annual generation of 40.4 GWh; (5) a 8.5-mile-long transmissioin line; and a 2-mile-long access road.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $289,000.

l. *Purpose of project:* Project power would be sold or used by the applicant.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

a. *Type of application:* Preliminary Permit.

b. *Project no.:* 11096-000.

c. *Date filed:* February 26, 1991.

d. *Applicant:* Southeastern Hydro Power, Inc.

e. *Name of project:* B. Everett Jordan Hydro Project.

f. *Location:* On the Haw River in Chatham County, North Carolina.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant contact:*

Paul V. Noland, 6219 North 19th Street, Arlington, VA 22205, (703) 534-5509.

i. *FERC contact:* Ed Lee (202) 219-2809.

j. *Comment date:* April 29, 1991.

k. *Competing application:* Project No. 11035-000, Date Filed: October 23, 1990.

l. *Description of project:* The applicant proposes to utilize an existing dam under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) modifications to the existing outlet; (2) a new 19-foot-diameter steel penstock that will divide into two 12-foot-diameter penstocks leading into the powerhouse; (3) a proposed powerhouse housing two generators for a total installed capacity of 7.1 MW located at the right side of the existing stilling basin; (4) a new 54-foot-wide and 100-foot-long tailrace; (5) a proposed 6-mile-long, 23-kV transmission line; and (6) appurtenant facilities. Applicant estimates that the cost of the work to be performed under the terms of the permit would be $25,000 and that the project average annual generation would be 36.9 GWH. All project energy produced would be sold to Carolina Power and Light Company.

m. This notice also consists of the following standard paragraphs: A8, A9, A10, B, C, and D2.

a. *Type of application:* Preliminary Permit.

b. *Project no.:* 11102-000.

c. *Date filed:* March 7, 1991.

d. *Applicant:* Olsen Electric Development Co., Inc.

e. *Name of project:* Middlesex Dam Hydroelectric Project.

f. *Location:* On the Concord River, in Lowell, Middlesex County, Massachusetts.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant contact:* Jerome A. Olsen, Olsen Electric Development Co., Inc., 168 Rea Street, Lowell, MA 01852, (508) 453-7951.

i. *FERC contact:* Mary C. Golato (202) 219-2804.

j. *Comment date:* May 30, 1991.

k. *Description of project:* The proposed project would consist of the following facilities: (1) An existing dam approximately 100 feet long and 10 feet high; (2) an island that spans between the northeast abutment of the dam and the remains of an intake structure; (3) three existing sluiceways located approximately ½ way across the island; (4) a proposed powerhouse with an undetermined number and type of units at an estimated installed capacity of 1,300 kilowatts; (5) proposed transmission lines running 200 feet long at an estimated 13,500 kilovolts; and (6) appurtenant facilities. The dam is owned by the City of Lowell, Massachusetts. The estimated annual energy is 4,400,000 kilowatthours.

l. This notice also consists of the following standard paragraphs: A5, A7, A10, B, C, and D2.

a. *Type of application:* Preliminary Permit.

b. *Project no.:* 11103-000.

c. *Date filed:* March 11, 1991.

d. *Applicant:* Hydro Management Corporation.

e. *Name of project:* Brooklyn Hydroelectric Project.

f. *Location:* On the Upper Ammonoosuc River near Groveton in Coos County, New Hampshire.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant contact:*

Paul V. Nolan, 6219 N. 19th Street, Arlington, VA 22205, (703) 534-5509.

i. *FERC contact:* Ms. Julie Bernt, (202) 219-2814.

j. *Comment date:* May 29, 1991.

k. *Description of project:* The proposed project would consist of the Brooklyn Development located 3.2 miles above the confluence with the Connecticut River and the Red Development 0.8 mile upstream of the Brooklyn Development. The Red Development would consist of: (1) The existing 4-foot-high rock-filled timber crib Red Dam owned by James River Paper Company, Inc.; (2) a reservoir with a surface area of 66 acres at a surface elevation of 889 feet m.s.l. and a storage capacity of 200 acre-feet; and (3) four 8-foot-wide and 8-foot-high gates. The Brooklyn Development would consist of: (1) the existing 16-foot-high Brooklyn Dam also owned by James River Paper Company, Inc.; (2) a reservoir with a surface area of 26 acres at surface elevation 880 feet m.s.l. and a storage capacity of 50 acre-feet; (3) an existing powerhouse with two proposed generating units with a total installed capacity of 500 kW; (4) a 100-foot-long tailrace; and (5) a 150-foot-long transmission line. The applicant estimates the average annual energy production to be 2,190 MWh and the cost of the work to be performed under the preliminary permit to be $50,000.

l. *Purpose of project:* The power produced would be sold to a local power company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A3. *Development Application*—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. *Preliminary permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. *Preliminary permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. *Preliminary permit*—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) A preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. *Proposed scope of studies under permit*—A perliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the perliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, protests, or motions to intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the preceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and service of responsive documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027 (810 1st), at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency comments*—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Public Law No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. *Agency comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency comments*—The Commission requests that the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agenc(ies), for the purposes set forth in section 408 of the Energy Security Act of 1980, file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, state and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 1, 1991 Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8104 Filed 4-5-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-123-000]

Canyon Creek Compression Co.; Proposed Changes in FERC Gas Tariff

April 1, 1991.

Take notice that on March 28, 1991, Canyon Creek Compression Company (Canyon) tendered for filing as proposed changes in its FERC Gas Tariff, First Revised Volume No. 1 and First Revised Volume No. 1A, the tariff sheets listed in appendices A and B attached to the filing, with the proposed effective date of May 1, 1991.

Canyon states that the filing is being made principally to comply with the terms of Canyon's last settlement in Docket No. RP88-95-000, which was approved by Commission Order, 46 FERC ¶ 61,348 (1989), and the Commission's regulations requiring pipelines to submit their entire FERC Gas Tariff in electronic media format.

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 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 8, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make portestants 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. 91-8105 Filed 4-5-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-127-000]

Columbia Gas Transmission Corp.; Petition for Emergency Waiver

April 1, 1991.

Take notice that Columbia Gas Transmission Corporation (Columbia), on March 28, 1991, filed a Petition for Emergency Waiver of the provisions of the FSS Rate Schedule and any other provisions of the Commission's regulations that may be necessary in order for Columbia to deal with the critical storage problem existing on its system in the manner proposed in the Petition.

Columbia states that it is requesting an emergency waiver because the 14% warmer than normal weather during the 1990-91 Winter Season has had a severe, adverse impact on Columbia's storage operations. In order to deal with this critical situation, Columbia states that it has proposed to its FSS customers that they postpone injection of a portion of their total SCQ during the 1991 summer season. Columbia will then furnish (from gas already in storage) the gas necessry to serve the Participating FSS customers' entitlements and satisfy Columbia's delivery obligations under the FSS Rate Schedule during the 1991-92 Winter Season. The FSS customers would then deliver approximately one-half of the postponed FSS storage injection quantities to Columbia during each of the summers of 1992 and 1993 in addition to normal FSS injection quantities. Columbia states that it has also agreed to provide short-term firm transportation service pursuant to the terms of the FTS Rate Schedule to transport the Postponed Quantities from available receipt points to storage.

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

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Enegy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 8, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 8107 Filed 4-5-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-126-000]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

April 1, 1991.

Take notice that on March 29, 1991, United Gas Pipe Line Company ("United") tendered for filing proposed changes to its FERC Gas Tariff to establish rates and revenue responsibility for all jurisdictional customers on the United system effective October 1, 1991. Specifically, United submitted both Third Revised Volume No. 1 and Fourth Revised Volume No. 1 of its FERC Gas Tariff, with Third Revised Volume No. 1 containing "Proposed Sheets" to be applicable if United is able to implement a variety of new services, described below, upon the expiration of the suspension period proposed for the rate filing, and with Fourth Revised Volume No. 1 to be applicable if United is not able to implement the new services on such date. United has proposed an effective date of May 1, 1991 for the applicable tariff sheets in anticipation of the Commission exercising its authority under Section 4(e) of the Natural Gas Act ("NGA") to suspend the effective date for such sheets for the full five-month statutory period so that the applicable sheets are allowed to be made effective October 1, 1991, in satisfaction of the three-year filing

requirement set forth in Part 154 of the Commission's regulations. 18 CFR 154.303(e).

United states that its filing is a major component of a proposed comprehensive, market-driven and market-responsive restructuring of United's rates and services. The other components of United's restructuring proposal, reflected in separate applications filed contemporaneous with its rate filing, include requests for certificate authorization under Section 7(c) of the NGA for Customized Storage and Delivery Service ("CSDS"), Market Responsive Storage and Delivery Service ("MRSDS"), Convertible Firm Service ("CFS") and Flexible Sales Authority ("FSA"), as well as a request for authorization under Section 7(b) of the NGA to abandon its firm sales service obligations down to the Maximum Daily Quantity ("MDQ") levels established in the rate filing. United also requests that its March 29, 1991 rate filing be consolidated with the related certificate and abandonment filings for consideration by the Commission, and that Commission approval of the certificate and abandonment applications be issued on or before August 30, 1991 in order for United to be able to implement its entire restructuring proposal upon the end of the suspension period on October 1, 1991.

United states further that the interrelated filings take into account United's primary role in the marketplace as a provider of transportation and flexible delivery services for third party gas, while maintaining sales service for the current needs of its traditional sales customers. The restructuring of United's sales, transportation, and storage services, is designed to provide service options and flexibility to United's current customers, as well as to potential customers in new market areas.

As an integral part of its rate filing, United proposes to replace the currently-effective Second Revised Volume No. 1 of its FERC Gas Tariff with a revised tariff. United states that its effort to establish comparability among all of its services, together with United's need to control and maintain the operational integrity of the system, are the principal reasons underlying the revisions to the tariff. The tariff, as revised, simplifies and reconciles United's currently-effective tariff by eliminating duplicative and outdated language, implements measures necessary to protect the operational integrity of its system, and facilitates United's ability to render service to all customer classes in a fair, consistent, and comparable fashion.

In addition, the March 29, 1991 filing provides that the rates reflected on the Sheet No. 4 series contained in both the Third and Fourth Revised Volumes are based in pertinent part on the MDQs which United has projected for its firm sales customers currently receiving service under the DG and G Rate Schedules, the majority of which are currently receiving service under service agreements that expired on December 31, 1989, but were extended through December 31, 1990 under the terms of United's Base Stipulation and Agreement approved by the Commission in Docket Nos. RP85-209, RP88-92, *et al.* However, United has proposed that each of its firm sales customers under the DG and G Rate Schedules, to the extent it desires to change the MDQ level which has been utilized to design the rates in the March 29, 1991 filing, be provided the opportunity to formally nominate new MDQs to be applicable to firm sales services rendered under the DG and G Rate Schedules effective October 1, 1991, provided that such new MDQs are allowed to be utilized for the purpose of redesigning the proposed rates to become effective upon the expiration of the proposed suspension period. Accordingly, United has proposed that its firm sales customers under the DG and G Rate Schedules submit new MDQ nominations in writing to United on or before May 15, 1991. United states that it will then refile, on or before June 1, 1991, new tariff sheets, together with related schedules and workpapers, reflecting rates redesigned on the basis of the new MDQs, with the substituted tariff sheets to become effective October 1, 1991 in lieu of the corresponding sheets contained in the March 29, 1991 filing. United states further that because it is proposing the submission of new MDQ nominations by its DG and G sales customers, it is possible that the rate levels to be refiled by United on or before June 1, 1991 to reflect such new MDQs may be higher than the rate levels reflected in the March 29, 1991 filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the relevant provisions of the Commission's Rules of Practice Procedure. 18 CFR 385.214, 385.211. All such petitions or protests must be filed on or before April 8, 1991. Protests 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 United's March 29, 1991 rate filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8106 Filed 4-5-91; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3918-5]

National Advisory Council for Environmental Policy and Technology Open Meetings on May 7 and 8

Under Public Law 92-463 (the Federal Advisory Committee Act), EPA give notice of the spring meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT) on May 7 and 8, from 9 a.m. to 5 p.m. at the Hyatt-Regency Hotel, 2799 Jefferson Davis Highway, Arlington, VA 22202. The agenda for the May 7 NACEPT full council meeting will include the following:

(1) The Council will discuss two key contemporary environmental issues at length; Trade and the Environment and Pollution Prevention

(2) A review and discussion of NACEPT's mission and other new business.

The meeting locations of the five standing NACEPT committees will be listed in the lobby of the Hyatt Regency Hotel, in Crystal City, VA, on May 8. The meetings will begin at 9 a.m. and conclude at 5 p.m.

Members of the public wishing to make comments to NACEPT or any of its committees are invited to submit them in writing to Mr. Robert Hardaker, Designated Federal Official for NACEPT, by May 1, 1991. Please send comments to Mr. Hardaker at the U.S. Environmental Protection Agency (A101-F6) 401 M Street., SW., Washington, DC 20460.

The meetings will be open to the public. Additional information on the meeting may be obtained from Mr. Robert L. Hardaker at the above address or by calling other staff members at (202) 475-9741.

Dated: April 1, 1991.

Robert Hardaker,

Designated Federal Official, National Advisory Council for Environmental Policy and Technology.

[FR Doc. 91-8167 Filed 4-5-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3918-7]

Science Advisory Board; Clean Air Scientific Advisory Committee; Open Meeting; April 29-May 1, 1991

Under the provisions of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that a meeting of the Clean Air Scientific Advisory Committee of the Environmental Protection Agency's Science Advisory Board will be held on April 29 through May 1, 1991 at the Radisson Governors Inn Hotel, North Carolina Highway 54, I-40 at Davis Drive, Exit 280, Research Triangle Park, North Carolina 27709. The hotel telephone number is (919) 549-8631.

The meeting will start at 9 a.m. on Monday, April 29 and will adjourn no later than 3 p.m. on May 1, and is open to the public. Although, the main purpose of the meeting is to review the draft Air Quality Criteria for Carbon Monoxide proposed by the Environmental Protection Agency, the April 29 session will include briefings by the Office of Air and Radiation and the Office of Research and Development on the impacts of the new Clean Air Act on their program.

Members of the public desiring additional information on this topic should contact Dr. James Raub, U.S. Environmental Protection Agency, Environmental Criteria and Assessment Office (MD-52), Research Triangle Park, North Carolina 27711 or by telephone at (919) 541-4157 or FTS 629-4157.

An agenda for the meeting will be available from Ms. Carolyn Osborne, Staff Secretary, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, Washington, DC 20460. Telephone: (202) 382-2552; FTS 382-2552; FAX (202) 475-9693. For other information regarding the meeting, contact Mr. Randall Bond, Designated Federal Official, Clean Air Scientific Advisory Committee by telephone at the same number or by mail to the Science Advisory Board (A-101F), 401 M Street, SW., Washington, DC 20460 no later than COB April 22, 1991. Anyone wishing to make a presentation at the meeting should forward a statement to Mr. Bond by the date noted above. The Science Advisory Board expects that the public statements presented at its meeting will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total of ten minutes.

Dated: March 29, 1991.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 91-8168 Filed 4-5-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1992 ITU World Administrative Radio Conference for Dealing With Frequency Allocations in Certain Parts of the Spectrum (92-WARC Advisory Committee)

April 2, 1991.

The FCC Industry Advisory Committee for the 1992 ITU World Administrative Radio Conference for Dealing with Frequency Allocations in Certain Parts of the Spectrum (92-WARC Advisory Committee) will meet between 2 and 5 p.m. on Friday, April 26, 1991, in room 856 at Commission premises located at 1919 M Street NW., Washington, DC.

The agenda for this sixth meeting of the Committee will be to receive status reports from each of the five informal working groups; to consider the Industry Advisory Committee's Final Report to the FCC in Docket No. 89-554; and to consider the need for any additional work of the Committee in preparing the United States for the 92-WARC itself.

Information regarding meetings of the Industry Advisory Committee and its five Informal Working Groups, may be obtained twenty-four hours a day, seven days a week, via the Public Access Link (PAL) by dialing the FCC Laboratory Computer at (301) 725-1072.

Designated Federal Official for the Committee is Walda W. Roseman, Office of International Communications, Federal Communications Commission, Washington, DC 20554, (202) 632-0935.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-8136 Filed 4-5-91; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following groups of mutually exclusive applications for two new FM stations:

Applicant, City and state	File No.	MM docket No.
	I	
A. James Eugene Hodges; Opelika, AL.	BPH-890920MF	91-70
B. ET Communications, Inc.; Opelika, AL.	BPH-890921MD	
C. Lee County Broadcasting, Inc.; Opelika, AL.	BPH-890921MM	
D. Shirley A. Caswell; Opelika, AL.	BPH-890921MV	
E. Whatley Communications, a General Partnership; Opelika, AL.	BPH-890921MW	
F. Opelika Radio Associates; Opelika, AL.	BPH-890921MP (Dismissed Herein)	
Issue heading and applicant 1. Comparative, A,B,C,D,E 2. Ultimate, A,B,C,D,E		
	II	
A. Classic Radio, Inc.; Central, NM.	BPH-890928MF	91-69
B. Mel-Mike Enterprises, Inc.; Central NM.	BPH-890928MJ	
C. Charles N. and Esther L. Morris, et al.; Central, NM.	BPH-890928MN (Dismissed Herein)	
Issue heading and applicant(s) 1. Environmental, A 2. Comparative, A,B, 3. Ultimate, A,B,		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor,

Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036. (Telephone (202) 452-1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 91-8199 Filed 4-5-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Port Authority of New York and New Jersey et al. Agreement(s) Filed

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

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

Agreement No.: 224-200493.

Title: The Port Authority of New York and New Jersey/Maher Terminals, Inc., Terminal Agreement.

Parties: The Port Authority of New York and New Jersey, Maher Terminals, Inc. (Maher).

Synopsis: The Agreement, filed March 28, 1991, permits Maher to use and occupy approximately 58,838 square feet of area with existing railroad tracks at the Elizabeth-Port Authority Marine Terminal for a term ending February 15, 1992.

By Order of the Federal Maritime Commission.

Dated: April 3, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-8116 Filed 4-5-91; 8:45 am]

BILLING CODE 6730-01-M

Tampa Port Authority, et al.; Agreement(s) Filed

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

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

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

Agreement No.: 224-010859-001.

Title: Municipality of Anchorage, Alaska/Sea-Land Service, Inc. Marine Terminal Agreement.

Parties: Municipality of Anchorage, Alaska (Anchorage), Sea-Land Service, Inc. (Sea-Land).

Filing Party: H. Glenzer, Jr., Port Director, Port of Anchorage, 2000 Anchorage Port Road, Anchorage, Alaska 99501.

Synopsis: The Agreement extends the term of Agreement No. 224-010859 to December 31, 1995 and grants Sea-Land preferential berthing rights at the Port of Anchorage dock for 156 vessel calls per calendar year.

Agreement No.: 224-200495.

Title: Tampa Port Authority/Bay Terminal & Stevedoring Company Marine Terminal Agreement.

Parties: Tampa Port Authority (Port) Bay Terminal & Stevedoring Company (Tenant).

Filing Party: H.E. Welch, Director of Traffic, Tampa Port Authority, P.O. Box 2192, 811 Wynkoop Road, Tampa, Florida 33601.

Synopsis: The Agreement provides Tenant a month-to-month lease of approximately 11,500 sq. ft. of remote paved and unpaved open storage area. In consideration, Tenant shall pay to the Port monthly rental of $200.00, plus taxes. Either party may cancel the lease by giving the other thirty days written notice.

By Order of the Federal Maritime Commission.

Dated: April 3, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-8117 Filed 4-5-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

CB&T Financial Corp., 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 29, 1991.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *CB&T Financial Corp.*, Fairmont, West Virginia; to acquire 100 percent of the voting shares of Bank of Hundred, Hundred, West Virginia.

2. *CB&T Financial Corp.*, Fairmont, West Virginia; to acquire 100 percent of the voting shares of The Tygarts Valley National Bank of Elkins, Elkins, West Virginia.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *BankFIRST Capital Corporation*, Eustis, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of BankFIRST, Eustis, Florida.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bourbon Bancshares, Inc.*, Bourbon, Missouri; to acquire at least 99.1 percent of the voting shares of Peoples Security Bank, Licking, Missouri.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Absarokee Bancorporation, Inc., Absarokee, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of U-Banc, Inc., Red Lodge, Montana, and thereby indirectly acquire United Bank of Absarokee, N.A., Absarokee, Montana.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Northpark Interim Corporation, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Northpark Financial Corp of Delaware, Wilmington, Delaware, and Northpark National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, April 2, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8128 Filed 4-5-91; 8:45 am]

BILLING CODE 6210-01-F

First State Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has 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.

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

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 29, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. First State Corporation, Albany, Georgia; to acquire Randolph County Federal Savings & Loan Association, Cuthbert, Georgia, and thereby engage in operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y. The activity will be conducted throughout the State of Georgia.

Board of Governors of the Federal Reserve System, April 2, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8129 Filed 4-5-91; 8:45 am]

BILLING CODE 6210-01-F

Manufacturers Hanover Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

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

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

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 29, 1991.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Manufacturers Hanover Corporation, New York, New York; to engage *de novo* through its subsidiary, The CIT Group Holdings, Inc., New York, New York, and one or more of its subsidiaries, in providing to others data processing and data transmission services, facilities (including data processing and data transmission hardware, software, documentation or operating personnel), data bases, or access to such services, facilities, or data bases by any technological means pursuant to § 225.25(b)(7); and in providing management consulting advice to nonaffiliated bank and nonbank depository institutions, including commercial banks, savings and loan associations, mutual savings banks, credit unions, industrial banks, Morris Plan banks, cooperative banks, and industrial loan companies pursuant to § 225.25(b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 2, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8130 Filed 4-5-91; 8:45 am]

BILLING CODE 6210-01-F

Gerald Norman Shukow, 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 29, 1991.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Gerald Norman Shukow, Huntington Station, New York; to acquire 11.19 percent of the voting shares of Hamptons Bancshares, Inc., East Hampton, New York, and thereby indirectly acquire Bank of the Hamptons, National Association, East Hampton, New York.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Hildebert F. Criste, Longboat Key, Florida; to acquire up to 24.9 percent of the voting shares of Bank Maryland Corp, Towson, Maryland, and thereby indirectly acquire Bank of Maryland, Towson, Maryland.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Charles R. and Linda L. Clatterbuck, Bellevue, Nebraska; to acquire an additional 24.05 percent of the voting shares of Crown Bancshares, Inc., Bellevue, Nebraska, for a total of 41.25 percent, and thereby indirectly acquire First United Bank of Bellevue, Bellevue, Nebraska.

2. William D. & Jeanette A. Whited, Maryville, Missouri; to acquire 69.9 percent, and Donald P. & Bonnie Whited, Tarkio, Missouri, to acquire 5.0 percent of the voting shares of Northwest Missouri Bancshares, Inc., Craig, Missouri, and thereby indirectly acquire Bank of Craig, Craig, Missouri.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Joe C. Wessendorff, Bellville, Texas; to acquire an additional 18.45 percent of the voting shares of Community Bancorporation, Inc., Bellville, Texas, for a total of 30.17 percent, and thereby indirectly acquire The First National Bank, Bellville, Texas.

Board of Governors of the Federal Reserve System, April 2, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8131 Filed 4-5-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice That the Secretary of Health and Human Services Is Declining to Determine Supplemental Security Income Benefit Amounts by Alternate Method

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: Section 1611(c)(4)(A) of the Social Security Act (the Act) provides that if the Secretary of the Department of Health and Human Services (the Secretary) determines that reliable information is currently available with respect to the income and other circumstances of an individual, the Secretary, at his discretion, may use that information to determine an individual's current month's supplemental security income (SSI) benefit amount. This method of determining SSI benefit amounts is an alternative to the use of income and other circumstances from a prior month, known as retrospective monthly accounting (RMA), as provided in section 1611(c)(1) of the Act. This notice announces that the Secretary has determined that no reliable information which is currently available and is administratively feasible to use exists. Therefore, the Secretary is exercising his discretion by declining to determine the SSI benefit amount for a current month using an alternate method, as provided under section 1611(c)(4) of the Act.

DATES: This notice is effective March 8, 1991.

FOR FURTHER INFORMATION CONTACT: René Parent or Cheryl Rosensteel, Social Security Administration, 3-K-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-9774 or (301) 965-9781.

SUPPLEMENTARY INFORMATION: We published final regulations on November 26, 1985 (50 FR 48563), implementing various provisions in section 1611(c) of the Act. Section 1611(c)(1) of the Act provides that an individual's eligibility for SSI benefits is to be determined based on income and other characteristics from the current month. The SSI benefit amount for a month is to be determined on the basis of income and other characteristics in the first or second month, as the Secretary chooses, preceding the month of eligibility. The final regulations provided that generally the income and other characteristics in the second month preceding the month of eligibility are to be used for determining the amount of SSI benefits.

Section 1611(c)(3) of the Act provides that an increase in Social Security (title II) benefits over the amount payable for the first or second preceding month, at the Secretary's option, will be counted in determining the amount of an SSI benefit for the first month or, at the Secretary's option, the second month in which there is an SSI benefit increase under section 1617 of the Act. The final regulations, published November 26, 1985 (50 FR 48563), provided for counting an increase from a cost-of-living adjustment (COLA) or recomputation in Social Security benefits for January and February as income in the month received to determine the SSI benefit amounts for January and February.

Section 1611(c)(4)(A) of the Act provides that if the Secretary determines that reliable information is currently available about an individual's income and other circumstances for a month, the Secretary, in his discretion, may determine the SSI benefit amount for that month on the basis of that information rather than based on income and other characteristics from the first or second prior month as required under RMA pursuant to section 1611(c)(1) of the Act. If the Secretary determines that reliable information is currently available which he will use to affect the current SSI benefit amount, section 1611(c)(4)(B) requires the Secretary to issue regulations prescribing the circumstances in which the information may be used to determine the SSI benefit amount. However, the Secretary, at his discretion, may continue to use retrospective monthly accounting even if he identifies reliable information which is currently available.

When we published the regulations on November 26, 1985 (50 FR 48563), to reflect various provisions of section 1611(c) of the Act, we stated in the preamble with regard to section 1611(c)(4) as follows:

> These regulations do not include a rule to determine a current month's benefit based on reliable information which is currently available. The Secretary has this matter under consideration, and is not exercising this authority at this time.

After publication of the final rules, we examined information regarding other Federal benefit programs to determine whether these sources could provide reliable information which is currently available and is administratively feasible to use. The following explains this process.

We maintain computer interfaces with other agencies, such as the Department of Veterans Affairs, the Office of Personnel Management for Federal civil

service information, and the Railroad Retirement Board. We receive this computer interface information after these other agencies prepare their payment tapes for the Treasury Department to use in preparing benefit checks or electronic deposits. These interfaces provide us with information with respect to income and other circumstances. We use this information to maintain the SSI records for eligible individuals.

The Computer Matching and Privacy Protection Act, which was effective January 1, 1990, requires that if the computer match data would cause SSA to take an adverse action against an individual (reduce, suspend, terminate or deny payments), SSA must notify the individual of our findings, including the data and their source, and defer the adverse action for 30 days to give the individual the opportunity to challenge the accuracy of the data. This means that, for example, data we receive from these other agencies in January cannot, by law, adversely affect an individual's payment until March at the earliest. Because of the time required for receipt of the data and the notification requirements of the law, this computer interface information, thus, is not "currently available" for determining the SSI benefit amount. This is the case even when the increase is due to a cost-of-living adjustment. Further, it is not administratively feasible to use the remainder of the interface information because of current systems limitations which prohibit the separate processing of information which would result in favorable payment consequences for the SSI recipient. In addition, because of the time required for receipt, some of this interface information is also not "currently available" for determining the SSI benefit amount.

In addition to the computer interfaces with other agencies, we maintain a computer interface with title II records within SSA. The title II interface does not require special electronic matching and, for certain situations, permits SSA to use the interface information for making correct payment for a particular month under either section 1611(c)(3) or RMA. For example, data for the COLA increase of title II benefits usually are received in time to make reductions in the SSI benefits for the month the increase is effective.

However, it has been our longstanding policy, based on the *Goldberg* v. *Kelly* court case, that before SSA can reduce, suspend or terminate a SSI payment, we must issue a written notice to the individual informing him or her of the event. If an adverse change is posted after the 10th of the month, the SSI payment cannot be reduced by the system for the next month. This creates an overpayment for the individual. Because of the advance notice requirements and systems requirements, only changes posted to the SSI record by the 10th of the month before the month of payment affect the payment. Because of the various increases and decreases in title II benefits occurring throughout the month, approximately one-half of the change are posted by the 10th of the month before the month of payment. For the other one-half of the cases involving changes, the information is not "currently available" for SSA's system to make timely changes in order to avoid causing an overpayment or an underpayment. To process payments manually based on changes in title II benefits is not administratively feasible.

We estimate that if all title II data were used by the system to compute the next month's SSI benefit payment (rather than using RMA), approximately 50 percent of the SSI recipients with title II income changes would be incorrectly paid. This is because of the need to have the data posted by the 10th of the month before the month of payment. Elimination of additional overpayments for SSI recipients is a major reason why retrospective monthly accounting was instituted.

Based on the foregoing review and examination of computer interface information, the Secretary has determined that no reliable information which is currently available which is administratively feasible to use exists. Therefore, the Secretary is exercising his discretion by declining to determine the SSI benefit amount for a current month using an alternate method, as provided under section 1611(c)(4) of the Act.

(Catalog of Federal Domestic Assistance Programs No. 13.807—Supplemental Security Income.)

Dated: March 27, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

[FR Doc. 91-8138 Filed 4-5-91; 8:45 am]

BILLING CODE 4190-29-M

Centers for Disease Control

National Institute for Occupational Safety and Health; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) announces the following meeting.

Name: Occupational Asthma Identification Methods.

Time and Date: 1-3 p.m., April 25, 1991.

Place: Appalachian Laboratory for Occupational Safety and Health, room 138, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505-2888.

Status: Open to the public, limited only by the space available.

Purpose: To review the project entitled, "Occupational Asthma Identification Methods." This project will attempt to prospectively ascertain occupational asthma cases among workers at risk due to workplace exposures. The sensitivity, specificity, and predictive values of several measures of occupational asthma will be evaluated for potential use in a workplace medical surveillance program.

Contact Person for Additional Information: Edward L. Petsonk, M.D., NIOSH, CDC, 944 Chestnut Ridge Road, Mailstop 240, Morgantown, West Virginia 26505-2888, telephone 304/291-4223 or FTS 923-4223.

Dated: April 2, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control.

[FR Doc. 91-8132 Filed 4-5-91; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 89P-0403]

Sour Cream Deviating From Identity Standard; Extension and Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the extension and amendment of a temporary permit, issued to Crowley Foods, Inc., to market test a product designated as "light sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The extension and amendment will allow the permit holder to continue experimental market testing of the product while the agency takes action on the permit holder's petition to establish a new standard of identity for "light sour cream."

DATES: The new expiration date of the permit will be either the effective date of a final rule for any proposal to establish a new standard of identity for "light sour cream," which may result from the

petition, or 30 days after termination of such rulemaking.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0343.

SUPPLEMENTARY INFORMATION: FDA issued a temporary permit under the provisions of 21 CFR 130.17 to Crowley Foods, Inc., P.O. Box 549, Binghamton, NY 13902, to market test a product designated as "light sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The agency issued the permit to facilitate market testing of foods that deviate from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). FDA published a notice of issuance of the temporary permit to Crowley Foods, Inc., in the **Federal Register** of October 30, 1989 (54 FR 43989).

Crowley Foods, Inc., has requested that FDA extend the temporary permit so that the market test period can continue while agency action on a petition to establish a new standard of identity for "light sour cream" proceeds. The permit holder also requested that their existing temporary permit be amended to provide for market testing to include distribution in the additional States of Indiana, Michigan, and Mississippi. In accordance with 21 CFR 130.17(i), the permit holder submitted a petition to establish a new standard of identity for "light sour cream" at the same time the application for extension was submitted.

FDA has issued a number of other temporary marketing permits for light (or lite) sour cream, all of which have been granted for products containing at least 50 percent less milkfat and ⅓ fewer calories than sour cream. FDA has required that the light sour cream products contain added vitamin A to ensure that they are nutritionally equivalent to sour cream and bear the label statements "reduced calories" and "reduced fat" following the name. In addition, the labels were required to bear the comparative statement, "_____ fewer calories and _____ less fat" with the blanks being filled with 33⅓ percent and 50 percent, respectively. Higher values that reflect the actual formulation can be used in the blanks, if applicable.

FDA finds that it would be in the interest of consumers to issue an extension of the time period for the market test. Consumers will benefit from continued tests to determine whether a product that is nutritionally equivalent to sour cream but contains fewer calories and less fat is acceptable.

To minimize the need to grant further extensions for minor variations in the product formulations and labeling, FDA is inviting interested persons to participate in the test market under the conditions that apply to Crowley Foods, Inc., or that comply with the compositional and labeling requirements stated above, except that the areas of distribution shall not apply. FDA tentatively concludes that it should not be necessary to grant any new temporary permits or to extend any other existing temporary permits for light sour cream.

Any person who wishes to participate in the extended market test must notify, in writing, the Acting Director, Division of Food Chemistry and Technology (HFF-410), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204. The notification must include the amount of test product to be distributed, the area of distribution, and the labeling that will be used for the test product (i.e., a label for each size of container and each brand of product to be test marketed).

Therefore, under the provisions of 21 CFR 130.17(f), FDA is amending the permit to provide for distribution in the additional States of Indiana, Michigan, and Mississippi, and under the provisions of 21 CFR 130.17(i), FDA is extending the expiration date of the permit so that the permit expires either on the effective date of a final rule for any proposal to establish a new standard of identity for "light (or lite) sour cream" which may result from the petition, or 30 days after termination of such rulemaking. All other conditions and terms of this permit remain the same.

Dated: April 1, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-8134 Filed 4-5-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91N-0137]

Drug Export; Blood Grouping Reagent Anti-D (Monoclonal/Polyclonal Blend)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Baxter Diagnostics, Inc., has filed an application requesting approval for the export of the biological product Blood Grouping Reagent Anti-D (Monoclonal/Polyclonal Blend) to Australia, Canada, Italy, Spain, and Switzerland.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, room 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Carl J. Chancey, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Baxter Diagnostics, Inc., 1851 Delaware Pkwy., Miami, FL 33125, has filed an application requesting approval for the export of the biological product Blood Grouping Reagent Anti-D (Monoclonal/Polyclonal Blend) to Australia, Canada, Italy, Spain, and Switzerland. Blood Grouping Reagent Anti-D (Monoclonal/Polyclonal Blend) is an in vitro diagnostic used in performing slide, tube, and microplate tests. The application was received and filed in the Center for Biologics Evaluation and Research on March 14, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions

may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 18, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: March 27, 1991.

Thomas S. Bozzo,

Director, Office of Compliance Center for Biologics Evaluation and Research.

[FR Doc. 91-8133 Filed 4-5-91; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Agency Information Collection Under OMB Review

AGENCY: Office of Human Development Service.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) for approval a new information collection for the Summary Data System (SDS), National Child Abuse and Neglect Data System (NCANDS).

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245-6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Angela Antonelli, OMB Desk Officer for OHDS, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street NW, Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Summary Data System (SDS), National Child Abuse and Neglect Data System (NCANDS).

OMB No.: N/A.

Description: The Child Abuse Prevention, Adoption and Family Services Act of 1988 (Pub. L. 100-294) requires the National Center on Child Abuse and Neglect (NCCAN) to establish a national data collection and analysis program on child maltreatment. This data collection system is expected to coordinate existing State child abuse and neglect reports which shall include: (a) Standardized data on false, unfounded, or substantiated reports; and (b) information on the number of deaths due to child abuse and neglect.

The National Child Abuse and Neglect Data System (NCANDS) consists of two components: the Summary Data System (SDS) and the Detailed Case Data System (DCDS). The SDS, representing the first phase of data collection, will require State agencies administering the Basic State Grant program to report aggregate data based upon information already collected by them. The SDS forms and instructions request aggregate data in the following information categories: reporting, investigation, and victims.

Annual Number of Respondents: 56.

Annual Frequency: 1.

Average Burden Hours Per Response: 40.

Total Burden Hours: 2,240.

Dated: April 2, 1991.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 91-8139 Filed 4-5-91; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-970-01-4120-14-241A; ALES 43165]

Request for Public Comment on Fair Market Value, Maximum Economic Recovery and the Environmental Assessment; Coal Lease Application ALES 43165

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Hearing and Comment Period.

SUMMARY: The Bureau of Land Management requests public comments on the fair market value, maximum economic recovery and the environmental assessment of certain coal resources it proposes to offer for competitive lease sale. The lands included in Coal Lease Application ALES 43165 are located in Tuscaloosa County, Alabama within the boundaries of the Yellow Creek Tract Project and described as follows:

Yellow Creek Tract Profile

Tuscaloosa County, Alabama

T. 17 S., R. 8 W., Huntsville Meridian
Sec. 5, N2SW, NENW;
Sec. 6, S2NE, N2SE, SESE;
Sec. 7, NENE, W2NW;
Sec. 8, NENE, SWNE.

The above contains 520 acres, more or less.

T. 17 S, R. 9 W., Huntsville Meridian
Sec. 2, W2NW, NWSW, NWSE;
Sec. 3, SW, SWSE;
Sec. 4, NENE, S2NE, S2SW;
Sec. 5, NWNW, S2NW, NESW, W2SW, E2SE;
Sec. 6, E2NE, E2SE;
Sec. 7, NENE, E2SW, SESE;
Sec. 8, SENE, S2SW, NESE, S2SE;
Sec. 9, NE, S2;
Sec. 10, N2, SW, NWSE;
Sec. 11, W2NW, SESE;
Sec. 12, SENE, SWNW, E2SE;
Sec. 13, NENE, W2NE, N2SW;
Sec. 14, E2NE, E2NW, NWSE, E2SE;
Sec. 15, W2NE, NW, NWSW, NWSE;
Sec. 17, NESW, NW;
Sec. 18, E2NE, NWNE, W2SW, E2NW;
Sec. 19, SENE, NWNE;
Sec. 20, NWNE, SWNW;
Sec. 22, E2SE, NENW;
Sec. 23, S2NE, NESE;
Sec. 24, E2SE, SWNW;
Sec. 25, NENE, NESE, E2SW;
Sec. 26, NWNW;
Sec. 27, E2NE;
Sec. 35, NE, S2SE;
Sec. 36, NE, SE, E2SW, NW.

The above contains 5,920 acres, more or less.

All of the above contains 6,440 acres more or less.

The range of quality of the coal within the proposed lease is as follows:

MARY LEE—BLUE CREEK SEAM

Proximate analysis (%)	Dry basis
Moisture	2.5
Ash	11.5
Volatile	27.6
Fixed Carbon	58.4
BTU/lb	12,877
Sulfur	0.9
From Keystone (1981)	

This seam contains an estimated 24.6 million short tons of recoverable coal.

The public is invited to submit written comments on the fair market value and the maximum economic recovery of the tract. In addition, notice is also given that a public hearing will be held on May 9, 1991 on the environmental assessment, the proposed sale, the fair market value and the maximum economic recovery of the proposed lease tracts.

DATES: Written comments must be received on or before May 8, 1991.

ADDRESSES: The public hearing will be held on May 9, 1991 at the Holiday Inn of Tuscaloosa, 3920 McFarland Boulevard East, Tuscaloosa, Alabama 35405 at 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: For more complete data on this tract, please contact Pearl Flaver Tillman at (703) 461-1468 or Ian J. Senio at (703) 461-1445, at the Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22034.

SUPPLEMENTAL INFORMATION: In accordance with the Federal coal management regulations 43 CFR 3422 and 3425, not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management, Eastern States Office, at the above address, in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, Eastern States Office, at the above address, during regular business hours (7 a.m. to 5 p.m.) Monday through Friday, except Federal holidays. Comments should be sent to the Bureau of Land Management, Eastern States Office, at the above address, and should address, but not necessarily be limited to the following information:

1. The method of mining to be employed in order to obtain maximum economic recovery of the coal;
2. The impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and
3. Methods of determining the fair market value of the coal to be offered.

The coal characteristics given above may or may not change as a result of comments received from the public and changes in market conditions that occur between now and the time at which final economic evaluations are completed.

Larry E. Hamilton,

Acting State Director.

[FR Doc. 91-8175 Filed 4-5-91; 8:45 am]

BILLING CODE 4310-GJ-M

[ES-940-4730-12; ES-044139, Group 190]

Florida; Filing of Plat of Dependent Resurvey

April 1, 1991.

1. The plat of the dependent resurvey of a portion of the south boundary; a portion of the subdivisional lines, Township 4 South, Range 14 West, and a portion of the subdivisional lines, Township 5 South, Range 14 West, Tallahassee Meridian, Florida, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on May 28, 1991.

2. The dependent resurvey was made at the request of the Army, Mobile District, Corps of Engineers.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., May 28, 1991.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Joseph W. Beaudin,

Acting Deputy State Director for Cadastral Survey.

[FR Doc. 91-8086 Filed 4-5-91; 8:45 am]

BILLING CODE 4310-GJ-M

[ID-943-01-4214-11; IDI-15631]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes that a 242.80 acre withdrawal for Powersite Reserve No. 132, continue for an additional 100 years which is the estimated life of the associated Arrowrock and Lucky Peak Dam and Reservoir Projects. The land is still needed for waterpower purposes. These lands will remain closed to surface entry, but have been and would remain open to mineral leasing and mining.

EFFECTIVE DATE: Comments should be received by July 8, 1991.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, (208) 384-3166.

The Bureau of Land Management proposes that the existing land withdrawal made by the Executive Order dated July 2, 1910, for Powersite Reserve No. 132, be continued for a period of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, insofar as it affects the following described land:

Boise Meridian

T. 2 N., R. 4 E.,
Sec. 6, NW¼SE¼NE¼.
T. 3 N., R. 4 E.,
Sec. 13, lots 1 to 4, inclusive, NW¼SW¼ and S½SW¼.

The area described contains 242.80 acres in Elmore and Boise Counties.

The withdrawal is essential for protection of the existing Lucky Peak and Arrowrock Dam and Reservoir Projects. The existing withdrawal closes the described land to surface entry but not to mineral leasing and mining. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued; and if so, for how long. The final determination of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: March 28, 1991.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 91-8084 Filed 4-5-91; 8:45 am]

BILLING CODE 4310-66-M

[ID-943-01-4214-10; IDI-28082]

Proposed Withdrawal and Opportunity for Public Meeting; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice

SUMMARY: The U.S. Forest Service proposes to withdraw 20.00 acres of National Forest System lands for development of chinook salmon rearing ponds by the Nez Perce Indian Tribe. This notice closes the lands for up to two years from location and entry under

the United States mining laws. The land will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by July 8, 1991.

ADDRESSES: Comments and meeting requests should be sent to the Idaho State Director, BLM, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Contact Larry R. Lievsay, BLM, Idaho State Office, (208) 384-3166.

SUPPLEMENTARY INFORMATION: On November 2, 1990, the U.S. Department of Agriculture filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

Boise Meridian

T. 35 N., R. 6E.,
Sec. 1, S½SW¼SE¼.

The area described contains 20.00 acres in Idaho County.

The purpose of the withdrawal is to protect the lands for the development of rearing ponds for chinook salmon by the Nez Perce Indian tribe.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their view in writing to the State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

The segregation of the lands in connection with this withdrawal application shall not affect the administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing use of the lands by the Nez Perce Tribe.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 91-8085 Filed 4-5-91; 8:45 am]

BILLING CODE 4310-66-M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting Reclamation's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Reclamation Clearance Officer at the address shown below, and to the Office of Management and Budget Interior Desk Officer, Paperwork Reduction Project (1006-0009), Washington, DC 20503, telephone 202-395-7340.

Title: Private Rental Survey.

OMB Approval Number: 1006-0009.

Abstract: Respondents supply identifying information, and descriptive and rental data on private rental houses, apartments, mobile homes, and trailer spaces. This information allows Reclamation to establish comparable rental rates for occupants of Government furnished quarters.

Reclamation Form Numbers: 7-2226 and 7-2227.

Frequency: On occasion.

Description of Respondents: Small businesses or organizations.

Annual Responses: 3,000.

Annual Burden Hours: 590.

Reclamation clearance officer: Mr. Robert A. Lopez, Chief, Publications and Records Management Branch, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado, 80225-007, 303-236-6769.

Dated: March 8, 1991.

Murlin Coffey,

Chief, Supply and Services Division.

[FR Doc. 91-8111 Filed 4-5-91; 8:45 am]

BILLING CODE 4310-09-M

Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs

AGENCY: Bureau of Reclamation, Interior.

ACTION: Request for comments to May 1, 1991, on review of Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs (Vol. 56, No. 4, Monday, January 7, 1991, p. 534).

SUMMARY: Because of the drought in the Colorado River Basin, several interested parties requested a new comment period for the 5-year review of the Criteria for the Long-Range Operation of Colorado River Reservoirs be available. As a result of these requests, the Bureau of Reclamation (Reclamation) has decided to enter a comment period to May 1, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Moore, Department of the Interior, Bureau of Reclamation, PO Box 427, Boulder City, Nevada 89005, (702) 293-7411 or FTS 598-7411.

SUPPLEMENTARY INFORMATION: The Operating Criteria promulgated pursuant to Public Law 90-537 were published in the Federal Register on June 10, 1970. The Operating Criteria provide for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act for the purposes of complying with and carrying out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty. The Operating Criteria provide that they will be reviewed at least at 5-year intervals with participation by such Colorado River Basin State representatives as each Governor may designate and such other parties and agencies as the Secretary of the Interior may deem appropriate. Public Law 90-537 allows the Secretary of the Interior, as a result of actual operating experiences or unforseen circumstances, to modify the Operating Criteria to better achieve their statutory purposes.

This will be the fourth 5-year review of the Operating Criteria conducted since their initial promulgation in 1970. Mr. Dennis B. Underwood, Commissioner of Reclamation, shall be the authorized agent of the Secretary of the Interior for the purpose of conducting and coordinating this review.

DATES: Written comments will be accepted until May 1, 1991. Responses received during the previous comment

periods will also be considered. Written comments as to whether the Operating Criteria should be modified are invited during the current comment period. Written comments may be mailed to:

Regional Director, Lower Colorado Region, Bureau of Reclamation, PO Box 427, Boulder City, Nevada 89005; or

Regional Director, Upper Colorado Region, Bureau of Reclamation, PO Box 11568, Salt Lake City, Utah 84147

SUPPLEMENTARY INFORMATION: If the comments received indicate a need for further information, meetings may be held to receive further input from the public. All respondents to this notice will be notified by mail of the times, dates, and places of any such meetings.

The scope of this review shall be consistent with the statutory purposes of the Operating Criteria, which are "* * * to comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty." Long-range operations generally refer to reservoir operations on an annual or less frequent basis, as opposed to short-term (hourly or daily) operations.

Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968, (Public Law 90–537) are as follows:

These Operating Criteria are promulgated in compliance with Section 602 of Public Law 90–537. They are to control the coordinated long-range operation of the storage reservoirs in the Colorado River Basin constructed under the authority of the Colorado River Storage Project Act (hereinafter "Upper Basin Storage Reservoirs") and the Boulder Canyon Project Act (Lake Mead). The Operating Criteria will be administered consistent with applicable Federal laws, the Mexican Water Treaty, interstate compacts, and decrees relating to the use of the waters of the Colorado River.

The Secretary of the Interior (hereinafter the "Secretary") may modify the Operating Criteria from time to time in accordance with section 602(b) of Public Law 90–537. The Secretary will sponsor a formal review of the Operating Criteria at least every 5 years, with participation by state representatives each Governor may designate and such other parties and agencies as the Secretary may deem appropriate.

I. Annual Report

(1) On January 1, 1972, and January 1 of each year thereafter, the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report describing the actual operation under the adopted criteria for the preceding compact water year and the projected plan of operation for the current year.

(2) The plan of operation shall include such detailed rules and quantities as may be necessary and consistent with the criteria contained herein and shall reflect appropriate consideration of the uses of the reservoir for all purposes, including flood control river regulation, beneficial consumptive uses, power production, water quality control, recreation, enhancement of fish and wildlife, and other environmental factors. The projected plan of operation may be revised to reflect the current hydrologic conditions, and the Congress and the Governors of the Colorado River Basin States shall be advised of any changes by June of each year.

II. Operation of Upper Basin Reservoirs

(1) The annual plan of operation shall include a determination by the Secretary of the quantity of water considered necessary as of September 30 of that year to be in storage as required by section 602(a) of Public Law 90–537 (hereinafter "602(a) Storage"). The quantity of 602(a) Storage shall be determined by the Secretary after consideration of all applicable laws and relevant factors, including, but not limited to, the following:

(a) Historic Streamflows;

(b) The most critical period of record;

(c) Probabilities of water supply;

(d) Estimated future depletions in the upper basin, including the effects of recurrence of critical periods of water supply;

(e) The "Report of the Committee on Probabilities and Test Studies to the Task Force on Operating Criteria for the Colorado River," dated October 30, 1969, and such additional studies as the Secretary deems necessary;

(f) The necessity to assure that upper basin consumptive uses not be impaired because of failure to store sufficient water to assure deliveries under section 602(a) (1) and (2) of Public Law 90–527.

(2) If in the plan of operation either:

(a) The Upper Basin Storage Reservoirs active storage forecast for September 30 of the current year is less than the quantity of 602(a) Storage determined by the Secretary under Article II (1) hereof for that date; or

(b) The Lake Powell active storage forecast for that date is less than the Lake Mead active storage forecast for that date,

the objective shall be to maintain a minimum release of water from Lake Powell of 8.23 million acre-feet for that year. However, for the years ending September 30, 1971 and 1972, the release may be greater than 8.23 million acre-feet if necessary to deliver 75,000,000 acre-feet at Lee Ferry for the 10-year period ending September 30, 1972.

(3) If, in the plan of operation, the Upper Basin Storage Reservoirs active storage forecast for September 30 of the current year is greater than the quantity of 602(a) Storage determination for that date, water shall be released annually from Lake Powell at a rate greater than 8.23 million acre-feet per year to the extent necessary to accomplish any or all of the following objectives:

(a) To the extent if can be reasonably applied in the States of the Lower Division to the uses specified in Article III(e) of the Colorado River Compact, but no such releases shall be made when the active storage in Lake Powell is less than the active storage in Lake Mead.

(b) To maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell, and

(c) To avoid anticipated spills from Lake Powell.

(4) In the application of article II(3)(b) herein, the annual release will be made to the extent that it can be passed through Glen Canyon Powerplant when operated at the available capability of the powerplant. Any water thus retained in Lake Powell to avoid bypass of water at the Glen Canyon Powerplant will be released through the Glen Canyon Powerplant as soon as practicable to equalize the active storage in Lake Powell and Lake Mead.

(5) Releases from Lake Powell pursuant to these criteria shall not prejudice the position of either the upper or lower basin interests with respect to required deliveries at Lee Ferry pursuant to the Colorado River Compact.

III. Operation of Lake Mead

(1) Water released from Lake Powell, plus the tributary inflows between Lake Powell and Lake Mead, shall be regulated in Lake Mead and either pumped from Lake Mead or released to the Colorado River to meet requirements as follows:

(a) Mexican treaty obligations;

(b) Reasonable consumptive use requirements of mainstream users in the lower basin;

(c) Net river losses;

(d) Net reservoir losses; and

(e) Regulatory wastes.

(2) Until such time as mainstream water is delivered by means of the Central Arizona Project, the

consumptive use requirements of article III(1)(b) of these Operating Criteria will be met.

(3) After commencement of delivery of mainstream water by means of the Central Arizona Project, the consumptive use requirements of article III(1)(b) of these Operating Criteria will be met to the following extent:

(a) *Normal:* The annual pumping and release from Lake Mead will be sufficient to satisfy 7,500,000 acre-feet of annual consumptive use in accordance with the decree in *Arizona* v. *California*, 376 U.S. 340 (1964).

(b) *Surplus:* The Secretary shall determine from time to time when water in quantities greater than "Normal" is available for either pumping or release from Lake Mead pursuant to article II(b)(2) of the decree in *Arizona* v. *California* after consideration of all relevant factors, including, but not limited to, the following:

(i) The requirements stated in article III(1) of these Operating Criteria;

(ii) Requests for water by holders of water delivery contracts with the United States, and of other rights recognized in the decree in *Arizona* v. *California;*

(iii) Actual and forecast quantities of active storage in Lake Mead and the Upper Basin Storage Reservoirs; and

(iv) Estimated net inflow to Lake Mead.

(c) *Shortage:* The Secretary shall determine from time to time when insufficient mainstream water is available to satisfy annual consumptive use requirements of 7,500,000 acre-feet after consideration of all relevant factors, including, but not limited to, the following:

(i) The requirements stated in article III(1) of these Operating Criteria;

(ii) Actual and forecast quantities of active storage in Lake Mead;

(iii) Estimate of new inflow to Lake Mead for the current year;

(iv) Historic streamflows, including the most critical period of record;

(v) Priorities set forth in article II(A) of the decree in *Arizona* v. *California;* and

(vi) The purposes stated in article I(2) of these Operating Criteria.

The shortage provisions of article II(B)(3) of the decree in *Arizona* v. *California* shall thereupon become effective and consumptive uses from the mainstream shall be restricted to the extent determined by the Secretary to be required by section 301(b) of Public Law 90–537.

IV. Definitions

(1) In addition to the definitions in section 606 of Public Law 90–537, the following shall also apply:

(a) *Spills,* as used in article I(3)(c) herein, means water released from Lake Powell which cannot be utilized for project purposes, including, but not limited to, the generation of power and energy.

(b) *Surplus,* as used in article III(3)(b) herein, is water which can be used to meet consumptive use demands in the three Lower Division States in excess of 7,500,000 acre-feet annually. The term "surplus" as used in these Operating Criteria is not to be construed as applied to, being interpretive of, or in any manner having reference to the term "surplus" in the Colorado River compact.

(c) *Net inflow to Lake Mead,* as used in article III(3)(b)(iv) and (c)(iii) herein, represents the annual inflow to Lake Mead in excess of loses from Lake Mead.

(d) *Available capability,* as used in article II(4) herein, means that portion of the capacity of the powerplant that is physically available for generation.

Dated: April 2, 1991.

Dennis B. Underwood,

Commissioner, Bureau of Reclamation.

[FR Doc. 91–8112 Filed 4–5–91; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31832]

Lafarge Corp.—Acquisition Control—MPC Equipment Company, L.P., D/B/A G&G Trucking and G&G Hauling; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from prior approval requirements of 49 U.S.C. 11343, *et seq.*, the acquisition of control by Lafarge Corporation, or an affiliate of Lafarge, of MPC Equipment Company, L.P., d/b/a G&G Trucking and G&G Hauling, subject to standard labor protective conditions.

DATES: This exemption will be effective on May 8, 1991. Petitions to stay must be filed by April 18, 1991. Petitions for reconsideration must be filed by April 29, 1991.

ADDRESSES: Send pleadings referring to Finance Docket No. 31832 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representatives: Karrie L. Hess or James B. Harris, Thompson & Knight, 3300 First City Center, 1700 Pacific Avenue, Dallas, Texas 75201

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245 [TDD for hearing impaired: (202) 275–1721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

Decided: March 25, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commssioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–8177 Filed 4–5–91; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31829]

Maine Central Railroad Company/Springfield Terminal Railroad Company—Trackage Rights—State of Maine Department of Transportation, Notice of Exemption

Maine Central Railroad Company (MEC) and the Springfield Terminal Railroad Company (ST) have entered into an agreement with the State of Maine, acting by and through its Department of Transporation (MDOT), whereby MDOT will acquire a line of railroad from MEC.[1] MEC and MDOT have entered into a "Freight Easement Agreement" in connection with the sale to MDOT.[2] MEC will retain the

[1] MDOT's acquisition is the subject of a separate notice of exemption in Finance Docket No. 31847. MDOT has filed a petition to revoke that notice on the grounds that jurisdiction over the transaction is lacking. The proper petition for such relief would be a notice to dismiss, and the petition will be treated as such in a subsequent decision by the Commission. Alternatively MDOT seeks to exempt the transaction under 49 U.S.C. 10505 from Title 49, Subtitle IV. This notice may also be dismissed depending on our disposition of these petitions (see also 2, *infra*).

[2] MEC states that it has filed this notice only in an "abandance of caution," maintaining that it has retained an easement on the line, has transferred nothing to MDOT that is subject to this agency's jurisdiction, and therefore cannot take back any rights subject to Commission jurisdiction. This argument will be addressed in connection with the motion to dismiss the notice in Finance Docket No. 31847.

permanent right ("a perpetual freight easement") to operate its own trains with its own crews between: (1) Hardings, Maine and Brunswick, Maine, a distance of approximately 4.39 miles; (2) Lisbon, Maine and Brunswick, Maine, a distance of approximately 9.17 miles; and (3) Church Road and Federal Street in Brunswick, Maine, a distance of approximately 1.37 miles.[3]

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Pleadings must be filed with the Commission and served on: John R. Nadolny, Assistant General Counsel, Law Department, Maine Central Railroad Company, Iron Horse Park, North Billerica, MA 01862.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western RY. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Dated: April 2, 1991.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-8179 Filed 4-5-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31847]

State of Maine, Department of Transportation—Acquisition and Operation Exemption—Maine Central Railroad Company; Notice of Exemption

The State of Maine, acting by and through its Department of Transportation (MDOT), has filed a notice of exemption to acquire from Maine Central Railroad Company (MEC) approximately 15.66 route miles of rail line located in Maine.[1] MDOT has filed simultaneously a petition to revoke this notice on grounds of lack of jurisdiction or, alternatively to exempt it under 49 U.S.C. 10505 from Title 49, Subtitle IV.[2] This petition is under consideration. Consummation is expected to occur after the Commission rules on or soon after May 3, 1991.

Any comments must be filed with the Commission and served on: Kevin M. Sheys, Weiner, McCaffrey, Brodsky, Kaplan & Levin, P.C., Suite 800, 1350 New York Avenue, NW., Washington, D.C. 20005-4797.

MDOT shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petition to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 2, 1991.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-8178 Filed 4-5-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-330 (Sub-No. 1)]

Otter Tail Valley Railroad Company, Inc.—Abandonment—In Stearns, Todd, Douglas, Grant, and Otter Tail Counties, MN; Notice of Findings

The Commission has found that the public convenience and necessity permit Otter Tail Valley Railroad Company, Inc. (OTVR) to abandon its 93.9-mile rail line between milepost 184.0 near Fergus Falls and milepost 90.1 near Avon, in Stearns, Todd, Douglas, Grant, and Otter Tail Counties, MN.

A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served on the applicant no later than 10 days from publication of this Notice. The following notation must be typed in boldface on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: March 25, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-8180 Filed 4-5-91; 8:45 am]

BILLING CODE 7035-01-M

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[3] The trackage rights or perpetual freight easement appear to be 0.73 miles less than the length of the line acquired (14.93 miles compared to 15.66 miles).

[1] The line extends: from engineering centerline station 241+78 (approximately milepost 33.79) near Hardings Farm Road to engineering centerline station 1206+00 (approximately milepost 29.40), all in Brunswick, Maine (approximately 4.39 route miles); from engineering centerline station 498+33 (approximately milepost 38.73) in Lisbon, Maine to engineering centerline station 14+10 (approximately milepost 29.56) in Brunswick (approximately 9.17 route miles); and from engineering centerline station 1206+00 (approximately milepost 29.40) to engineering centerline station 1133+64.4 (approximately milepost 28.03), including therein the wye section of the line running from engineering centerline stations 1175+64 (approximately milepost 28.83) and 1189+31.4 (approximately milepost 29.09) to the engineering centerline station 14+10 described above, all in Brunswick (approximately 2.10 route miles).

[2] In the related Finance Docket No. 31828, MDOT has filed a notice of exemption pursuant to 49 CFR 1180.2(d)(7) for an exemption for acquisition of trackage rights that MDOT will grant back to Maine Central if the Commission finds that such a grant-back is required when it rules on the petition to vacate.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities, Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue NW., Washington, DC 20506, in room 730, from 9 a.m. to 5 p.m. on Friday, May 17, 1991.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after July 1, 1991.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552(b) and that it is essential to close the

meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Catherine Wolhowe, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/786-0322.

Catherine Wolhowe,

Advisory Committee, Management Officer.

[FR Doc. 91-8143 Filed 4-5-91; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Federal Network Council Advisory Committee; Establishment

The Assistant Director for Computer and Information Science and Engineering has determined that the establishment of the Federal Network Council Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Federal Network Council Advisory Committee.

Purpose: To provide the Federal Network Council (FNC) with technical, tactical, and strategic advice from a broad range of constituencies representing industry, academia, and relevant technology and services experts in networking and computer science.

Balanced Membership Plan: The Committee will consist of about 18 members. Members will be selected from a broad range of industry, academia, and relevant technology and services experts in networking and computer science. Careful consideration will be given to achieving age and geographical balance and to enhancing representation for women, minority, and disabled scientists.

Responsible NSF Official: Dr. Stephen S. Wolff, Division Director, NCRI, National Science Foundation, room 416, 1800 G Street NW., Washington, DC 20550, (202) 357-9717.

Dated: April 2, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-8090 Filed 4-5-91; 8:45 am]

BILLING CODE 7555-01-M

Archaeology Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Archaeology.

Date and Time: April 23-24, 1991, 9 a.m.-5 p.m.

Place: Clarion Hotel, 1500 Canal Street, New Orleans, Louisiana 70112.

Type of Meeting: Closed.

Contact Person: Dr. John E. Yellen, Program Director for Anthropology, room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7804.

Purpose of Meeting: To provide advice and recommendations concerning support for research in Archeology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-8091 Filed 4-5-91; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for BBS Research Training Groups; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for BBS Research Training Groups.

Date and Time: Thursday, April 25, 1991 from 8:30-6 Friday, April 26, 1991 from 8:30-5.

Place: One Washington Circle Hotel, 1 Washington Circle, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Gerald Selzer, Program Director Special Projects, Division of Instrumentation and Resources, room 312, National Science Foundation, 1800 G St. NW., Washington, DC 20550, Telephone: (202) 357-9880.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for training activities in research areas supported by the Biological, Behavioral and Social Sciences Directorate of the National Science Foundation.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-8094 Filed 4-5-91; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Genetics Program; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Genetics.

Date and Time: Thursday, Friday, and Saturday April 25, 26, and 27, 1991.

Time: 8:30 a.m. to 5 p.m.

Place: The National Science Foundation, 1800 G St. NW., room 1243.

Type of Meeting: Closed.

Contact Person: Philip Harriman, Program Director, Prokaryotic Genetics, room 325-H Telephone: (202) 357-9687.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-8092 Filed 4-5-91; 8:45 am]

BILLING CODE 7555-01-M

Political Science Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Political Science.

Date/Time: April 26-27, 1991: 9 a.m. to 5 p.m. each day.

Place: Room 523, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. William T. E. Mishler, Program Director for Political Science, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7534.

Purpose of Panel: To provide advice and recommendations concerning research in Political Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-8095 Filed 4-5-91; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Social Psychology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Social Psychology.

Date & Time: April 24-26, 1991: 9 a.m. to 5 p.m. each day.

Place: National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Part Open—Closed: April 24, 1991—9 a.m. to 5 pm.; Closed: April 25, 1991—9 a.m. to 5 p.m.; Open: April 26, 1991—9 a.m. to 11 a.m.; Closed: April 26, 1991—11 a.m. to 5 p.m.

Contact Person: Dr. Jean B. Intermaggio, Program Director for Social Psychology, room 320, National Science Foundation, Washington, DC 20550, (202) 357-9485.

Purpose of Panel: To provide advice and recommendations concerning support for research in Social Psychology.

Agenda: Open—General discussion of the current status and future plans of the Social Psychology Program. Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act.

Dated: April 2, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-8093 Filed 4-5-91; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Teacher Preparation and Enhancement; Notice of Meeting

The National Science Foundation announces the following meeting:

Date and Time: 25 April—7:30 p.m.—10 p.m.; 26 April—08:30 a.m. to 5 p.m.; 27 April—08:30 a.m. to 3 p.m.

Location: Holiday Inn The Governor's House, 17th Street at Rhode Island Avenue NW., Washington, DC.

Type of Meeting: Closed.

Contact Persons: Dr. Donald Sands or Dr. Donald Douglas, (202) 357-9502, (202) 357-7751.

Agenda: Review and evaluate Private Sector Partnerships Program proposals.

Purpose of Panel: Provide advice to the National Science Foundation concerning the support of research, engineering, and science education.

Reason for Closing: The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Dated: April 2, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-8096 Filed 4-5-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Revision of Appendix A to 10 CFR Part 100; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission staff will meet with the staff of Nuclear Management and Resources Council (NUMARC) and other industry representatives to discuss the revision of appendix A to 10 CFR part 100.

DATES: April 17, 1991, 9 a.m.

ADDRESSES: Hyatt Regency, 1 Bethesda Metro Center, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Dr. Andrew J. Murphy, Chief, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-3860.

SUPPLEMENTARY INFORMATION: Appendix A to 10 CFR part 100 describes seismic and geologic siting criteria for nuclear power plants. Because of the advances in the state-of-the-art since the publication of current appendix A, a need for the revision has been established. The purpose of the meeting is to hear NUMARC and industry's views regarding potential revision to appendix A. The tentative agenda is as follows:

—Introduction

—NUMARC presentation on appendix A

—Discussion

Dated at Rockville, Maryland, this 1st day of April, 1991, for the Nuclear Regulatory Commission.

Lawrence C. Shao,

Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 91-8170 Filed 4-5-91; 8:45 am]

BILLING CODE 7590-01-M

Atomic Safety and Licensing Board

[Docket No. 030-12145-CivP E.A. 89-079 ASLBP No. 91-622-01-CivP]

Certified Testing Laboratories, Inc.; (Materials License No. 29-14150-01); Change in Starting Time of Prehearing Conference

April 2, 1991.

Notice is hereby given that the starting time of the prehearing conference scheduled for Tuesday, April 16, 1991 (see Notice of Prehearing Conference and Evidentiary Hearing, dated February 19, 1991, 56 FR 7733, February 25, 1991) has been changed from 9:30 a.m. to 10:30 a.m. on that same day. The evidentiary hearing will commence immediately following the conference. Both sessions will be held at the Township of Bordentown Courtroom, Municipal Drive, Bordentown, New Jersey 08505.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 91-8171 Filed 4-6-91; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street NW., Washington, DC 20549.

Extension, Form N-14, File No. 270-297.

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 has submitted for extension of OMB approval Form N-14 under the Securities Act of 1933 (17 CFR 239.23).

Form N-14 is used for registration under the Securities Act of 1933 of securities issued in business combination transaction by registered investment companies and business development companies. The form imposes a burden of about 2500 hours per response.

The estimates of average burden hours are made solely for the 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 general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (Paperwork Reduction Project 3235-0336 [Form N-14]) room 3208 NEOB, Washington, DC 20503.

Dated: March 30, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-8100 Filed 4-5-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 29030]

Meeting/Conference Travel

April 1, 1991.

The Securities and Exchange Act of 1934, as amended in August, 1983, gives the Commission authority to accept payment and reimbursement from non-federal entities to defray the cost of travel and subsistence expenses incurred by Commission members and staff while participating in meetings and conferences concerning the agency's responsibilities.

James M. McConnell, Executive Director, today released the following compilation of payments and reimbursements for such travel during the quarter ending March 31, 1991:

Quarter ending March 31, 1991	Type of traveller	Number of trips	Host paid	SEC paid
	Member	21	$14,382	$5,890
	Staff	147	78,422	1,439

For the Commission, by the Executive Director, pursuant to delegated authority under 17 CFR 200.30-15.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-8102 Filed 4-5-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29031; International Series Release No. 249; File No. SR-Amex-91-04]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Listing Standards for Non-U.S. Issuers

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 March 13, 1991, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend section 110 of the Amex Company Guide in order to eliminate its alternate financial guidelines for non-U.S. issuers and reduce its alternate distribution criteria for such companies.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

In 1977, following the adoption of a similar rule change by the New York Stock Exchange, Inc. ("NYSE"),[1] the Amex adopted alternate listing criteria for non-U.S. issuers which were unable to satisfy its domestic public share distribution standards.[2] At that time, it was anticipated that U.S. investors would be interested only in the largest overseas issuers, and that only financial "giants" would attract the necessary

[1] See Securities Exchange Act Release No. 12471 (May 20, 1976), 41 FR 21854 (order approving File No. SR-NYSE-76-22).

[2] The Amex's alternate listing criteria for non-U.S. issuers requires a share distribution of 2,000 round-lot shareholders worldwide; 1,000,000 publicly held shares worldwide; and an aggregate market value of publicly held shares equal to $20,000,000 worldwide. In addition, the size and earnings criteria require $25,000,000 in stockholders' equity and $30,000,000 of cumulative total pre-tax income for the latest three fiscal years with a minimum of $7,500,000 in each year. *See* Securities Exchange Act Release No. 14214 (November 11, 1977), 42 FR 62226 (order approving File No. SR-Amex-77-18); Section 110 of the Amex Company Guide.

research coverage to stimulate investments by prospective U.S. shareholders. It was also believed that smaller issuers were less likely to satisfy the Exchange's corporate governance requirements. As a result, the Amex adopted guidelines which dwarfed the comparable criteria applicable to U.S. or Canadian issuers and which continue to exceed the domestic listing criteria of the NYSE.[3]

In light of the current interest in overseas securities, the Amex no longer believes that only the largest foreign issuers will be able to attract sufficient investor interest as to warrant listing on a U.S. exchange. Similarly, foreign issuers are now eligible for exceptions to the corporate governance rules of all major marketplaces. Thus, the Amex no longer believes that there is any justification for requiring higher financial or market capitalization standards to list non-U.S. companies and is, therefore, proposing to eliminate the alternate criteria in favor of applying its domestic guidelines.[4]

The Exchange is also proposing to change its alternate distribution guideline, which is presently 2,000 holders. The Amex's experience in trading foreign securities has made clear that specialists and other investors can easily convert foreign shares into American Depository Receipts ("ADRs") and vice versa. Liquidity is not just a function of U.S. or foreign shareholders, but of total trading in an issue on a worldwide basis. Thus, it should not be difficult to maintain a market in a foreign issue during the nascent period of the U.S. market. Nevertheless, to increase the likelihood that a liquid U.S. market will develop, it is proposed to require non-U.S. market will develop, it is proposed to require non-U.S. issuers to have a minimum of 800 public holders worldwide and a minimum public float of one million shares (this minimum public float is unchanged from the present requirement). This guideline would still be significantly higher than the domestic guideline of 400 U.S. holders for an issuer with 1,000,000 or more shares held publicly.[5]

[3] For the NYSE's current domestic listing standards, see generally Sections 101–102 of the NYSE Listed Company Manual.

[4] The Amex's current domestic guidelines require, among other things, stockholders' equity of $4,000,000; pretax income of $750,000 in the last fiscal year or in two of the last three fiscal years; and market capitalization of $3,000,000. See generally sections 101 and 102 of the Amex Company Guide.

[5] In addition, the Amex proposes to decrease the aggregate market value of publicly held shares required to be met by a foreign issuer utilizing the alternate listing criteria. Currently, a foreign issuer's publicly held shares must have an aggregate market value of $20,000,000. The propsal would decrease this figure to $3,000,000, the current listing requirement for domestic companies. See note 4, *supra*.

Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is intended to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will remove or lessen existing burdens on competition in that it will amend listing guidelines which place the Exchange at a competitive disadvantage with respect to certain other marketplaces.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-91-04 and should be submitted by April 29, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 1, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-8149 Filed 4-5-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18071; 811-6079]

Dreyfus Investment Grade Municipal Fund, Inc.; Notice of Application

March 29, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Dreyfus Investment Grade Municipal Fund, Inc.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATE: The application on Form N-8F was filed on March 22, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 25, 1991, and should be accompanied by proof of service on applicant, in the form of an affidavi or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 144 Glenn Curtiss Boulevard, Uniondale, New York 11556-0144.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Staff Attorney, (202)

272–3043, or Jeremy N. Rubenstein, Branch Chief, (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

APPLICANT'S REPRESENTATIONS:

1. Applicant is a closed-end diversified management company organized as a corporation under the laws of the State of Maryland. On April 23, 1990, applicant filed a Notification of Registration and a Registration Statement pursuant to Sections 8(a) and 8(b) of the 1940 Act. Applicant's Registration Statement was not declared effective, and applicant has not offered or sold any of its shares of stock to the public.

2. Applicant has no assets, liabilities, or securityholders. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant has not commenced, and does not intend to commence, operations. Applicant will not engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–8101 Filed 4–5–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18072; 812–7003]

Portico Funds, Inc.; Application

April 1, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Portico Funds, Inc. ("Portico"), Sunstone Financial Group, Inc. ("Sunstone"), and First Wisconsin Trust Company ("First Wisconsin").

RELEVANT SECTION OF THE ACT: The application seeks an order of the Commission under Section 11(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order of the Commission under Section 11(a) of the Act approving certain offers of exchange between open-end management investment companies for which First Wisconsin now or hereafter serves as transfer agent (the "Participating Funds") and Portico's three no-load taxable and tax-exempt money market portfolios (the "Money Market Portfolios") on a basis other than the relative net asset values of the securities to be exchanged.

FILING DATES: The application was filed on March 9, 1988, amended on May 13, 1988, August 16, 1989 and November 29, 1990, and supplemented with a letter from Applicants' counsel on March 25, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 26, 1991 and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 207 East Buffalo Street, Suite 215, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272–3035, or Max Berueffy, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Portico is registered under the Act as an open-end management investment company. Shares of Portico's Money Market Portfolios are sold without a sales load.

2. Sunstone is a registered broker-dealer, and serves as distributor of the shares of Portico's Money Market Portfolios. Sunstone does not serve as distributor to any Participating Fund.

3. First Wisconsin serves as investment adviser, custodian and transfer agent to each Money Market Portfolio. In addition, First Wisconsin is the transfer agent of each Participating Fund.

4. Each Participating Fund is a non-money market fund that presently is not a member of any investment company group that includes both taxable and tax-exempt money market portfolios. Shares of some of the Participating Funds may be sold subject to a sales load.

5. Applicants propose to permit shareholders of non-money market portfolios offered by the Participating Funds to exchange their shares for shares of Portico's Money Market Portfolios, and vice versa, with the following conditions. Money Market Portfolio shares could only be exchanged for shares of the Participating Fund from which shares were originally exchanged for Money Market Portfolio shares or, to the extent permitted by the Applicants and the principal underwriter of such Participating Fund, shares of another Participating Fund that is part of the same group of investment companies as such Participating Fund. Thus, a Money Market Portfolio shareholder who desires to participate in Applicants' exchange program must first buy shares of a Participating Fund. The person could then exchange any or all Money Market Portfolio or Participating Fund shares through Applicants' exchange program. Finally, a person holding shares of one Participating Fund would not be permitted to exchange those shares for shares of a Participating Fund in a different group of investment companies.

6. Any sales load payable in connection with Applicants' exchange program will be paid to the principal underwriter and/or selling broker/dealer (*i.e.*, a broker/dealer entitled to a portion of the sales load from the principal underwriter as a dealer's reallowance) for the Participating Fund involved in the exchange. No portion of the sales load will be paid to First Wisconsin or Sunstone. Applicants may also impose an administrative and/or redemption fee as permitted under Rule 11a–3. Sunstone will receive no fee or other compensation in connection with a share exchange.

Applicants' Legal Analysis

1. Section 11(a) of the Act provides, among other things, that "[i]t shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission or are in

accordance with such rules and regulations as the Commission may have prescribed in respect of such offers which are in effect at the time such offer is made." Applicants' offers of exchange require Commission approval under section 11(a) because the imposition of sales loads and other fees will result in the share exchanges not being made at relative net asset value.

2. Rule 11a-3 under the Act provides that notwithstanding section 11(a), a registered open-end investment company or its principal underwriter making an exchange offer may cause a securityholder to be charged a sales load on the security acquired in the exchange, a redemption fee, an administrative fee, or any combination of the foregoing, provided certain conditions are met. One of these conditions is that the exchange offer must be made only to securityholders in investment companies that are within a single "group of investment companies." Rule 11a-3 defines "group of investment companies" as "any two or more registered open-end investment companies that hold themselves out to investors as related companies for purposes of investment and investor services, and (i) [t]hat have a common investment adviser or principal underwriter, or (ii) [t]he investment adviser or principal underwriter of one of the companies is an affiliated person as defined in section 2(a)(3) of the Act [15 U.S.C. 80a-2(a)(3)] of the investment adviser or principal underwriter of each of the other companies." Thus, Applicants cannot rely on rule 11a-3 because the Money Market Portfolios and the Participating Funds do not have common or affiliated advisers or principal underwriters and are therefore not within a single "group of investment companies".

3. Applicants' exchange program will be conducted in accordance with rule 11a-3 in all respects, except for the "group of investment companies" requirement. Applicants believe that the "group of investment companies" requirement was included in rule 11a-3 simply because all but one of the exemptive orders under section 11(a) issued prior to adoption of rule 11a-3 involved related investment companies. Even though the Participating Funds are not within the same group of investment companies, Applicants do not believe the proposed share exchange program will present any unusual operational or administrative difficulties because First Wisconsin will serve as transfer agent to each of the funds involved in the program. In this capacity, First Wisconsin will monitor the payment of, and collect, sales loads, administrative fees, and redemption fees. Performing those duties will involve a variety of specific tasks, such as making appropriate changes to the shareholder records of the Money Market Portfolios and the Participating Funds. Thus, First Wisconsin will be well-positioned to assure that sales loads and other fees are assessed in accordance with rule 11a-3.

4. Applicants contend that their exchange program will benefit Participating Fund and Portico shareholders in several ways. First, according to the Applicants, the principal underwriters of the Participating Funds have not organized money market portfolios for their own fund groups because they assume that the asset size of such portfolios would be too small to achieve competitive yields. Thus, the exchange program will give shareholders in the Participating Funds ready access to the taxable and tax-exempt money market portfolios operated by Portico. Second, Portico shareholders will benefit from the economies of scale that would result from the expected increase in assets of Portico's money market portfolios once the exchange program commences. Finally, linking the Money Market Portfolios to the Participating Funds through the exchange program will allow a shareholder's redemption proceeds to be reinvested immediately in shares of another fund.

Applicant's Conditions

The Applicants agree that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. First Wisconsin will be solely responsible for tracking the payment of sales loads, administrative fees and redemption fees by shareholders of investment companies or portfolios covered by the Application, and otherwise will conduct share exchanges in accordance with Applicant's representations.

2. Applicant's offers of exchange will be conducted in accordance with rule 11a-3 of the Act, except for that rule's requirement that an offering company make an exchange offer only to the holder of a security of the offering company, or of another open-end investment company within the same group of investment companies as the offering company.

3. Each principal underwriter and selling broker/dealer involved in Applicant's exchange program will adopt and enforce internal control procedures that are designed to assure the program's compliance with all applicable provisions of rule 11a-3 under the Act.

4. Any principal underwriter, selling broker/dealer or fund relying on the requested order in order to participate in Applicant's exchange program will, in connection therewith, comply with all applicable provisions of rule 11a-3 and the representations and conditions of any applicable exemptive order, and will monitor actively consumer complaints and other indicators of possible improprieties in connection with Applicant's exchange program.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-8150 Filed 4-5-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD14 91-01]

Vessel Certificates and Exemptions Under the International Regulations for Preventing Collisions at Seas (72 COLREGS)

AGENCY: Coast Guard, DOT.

ACTION: Notice of granting of Certificates of Alternative Compliance to vessels.

SUMMARY: This notice lists a vessel granted a Certificate of Alternative Compliance. This notice lists a vessel which, due to its special construction and purpose, cannot comply fully with certain provisions of the International Regulations for Preventing Collisions at Sea (72 COLREGS) without interfering with the vessel's special functions. The intent of this notice is to allow the mariner to be aware of the listing of this vessel that has been granted a Certificate of Alternative Compliance.

EFFECTIVE DATE: April 1, 1991.

FOR FURTHER INFORMATION CONTACT: CDR Arthur E. Adkins, Chief, Commercial Vessel Safety Branch, U.S. Coast Guard, Commander (mvs), Fourteenth Coast Guard District, PJKK Federal Bldg., 300 Ala Moana Blvd., room 9149, Honolulu, Hawaii 96850-4982. Telephone (808) 541-2114.

SUPPLEMENTARY INFORMATION: Under the provisions of subsection 1605(c) of title 33, United States Code, the Coast Guard publishes, in the **Federal Register**, a listing of vessels granted Certificates of Alternative Compliance. Certificates of Alternative Compliance are based on

a determination that a vessel cannot comply fully with International Rules of light(s), shape(s), and sound signal provisions without interference with the vessel's special function. The listing consists of vessels granted certificates after authority of issuance was transferred to the Chief of the Marine Safety Division of the Coast Guard Districts on April 1,1982 (33 CFR part 81). The alternative allowed results in the closest possible compliance with Annex I of the 72 COLREGS. The following vessel is not in compliance with 72 COLREGS and has been issued a Certificate of Alternative Compliance.

Global Link, Official Number 972940

The above vessel's after masthead light separation from the forward masthead light is less than one half the length of the vessel (Annex I(3)(a)). The length overall of the vessel is 477.9 feet and the horizontal separation between the lights is 210.6 feet vice the required 238.95 feet.

Dated: April 1, 1991.

C.C. Martin,

Captain, U.S. Coast Guard, Chief, Marine Safety Division, Fourteenth Coast Guard District.

[FR Doc. 91-8165 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-14-M

[CGD 91-021]

Navigation Safety Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

As required by the Federal Advisory Committee Act, this notice announces a meeting of the Navigation Safety Advisory Council on Monday through Wednesday, May 6-8, 1991. The meeting will be held at the Coast Guard Support Center Alameda, Coast Guard Island, Building 10, room 114, Alameda, CA.

Committees will meet on Monday, May 6 from 8:30 to 11:30 a.m. and on Tuesday, May 7, from 1 to 4 p.m. Committee discussions will include the following topics:

(a) *Navigation Rules:*

1. Proper lighting for barges being towed.
2. Sailing vessel lighting.
3. Lights and shapes displayed by vessels engaged in fishing.
4. Communication by whistle signals between tugs and vessels under tow.
5. Consistency review of Navigation Rules.

b. *Vessel Traffic Service (VTS) issues.*

c. *Provisional International Maritime Organization (IMO) standards for Electronic Chart Display and Information System (ECDIS).*

d. *Marking of submerged dredged pipelines.*

e. *Human Factors in Navigation Safety:*

1. One man bridge-watch practices.
2. Fatigue and other human factors.

The Council will convene in plenary session on Tuesday, May 7 at 4:15 to 6:30 p.m. and reconvene on May 8 at 8:30 a.m. to hear Committee status reports and any matters properly brought before the Council.

The meeting is open to the public. Persons wishing to make oral statements should notify the Executive Director at the address below no later than Friday, May 3, 1991. Any person may present a written statement to the Council at any time without advance notice.

For additional information, contact Margie G. Hegy, Executive Director, Navigation Safety Advisory Council, U.S. Coast Guard (G-NRS-3), Washington, DC 20593-0001, Telephone (202) 267-0415.

Dated: April 2, 1991.

J.W. Lockwood,

Captain, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 91-8166 Filed 4-5-91; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 10-91]

Treasury Notes, Series M-1996

March 28, 1991.

The Secretary announced on March 27, 1991, that the interest rate on the notes designated Series M-1996, described in Department Circular—Public Debt Series—No. 10-91 dated March 21, 1991, will be 7¾ percent. Interest on the notes will be payable at the rate of 7¾ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 91-8121 Filed 4-5-91; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 9-91]

Treasury Notes, Series Y-1993

March 27, 1991.

The Secretary announced on March 26, 1991, that the interest rate on the notes designated Series Y-1993, described in Department Circular—Public Debt Series—No. 9-91 dated March 21, 1991, will be 7⅛ percent. Interest on the notes will be payable at the rate of 7⅛ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 91-8122 Filed 4-5-91; 8:45 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Private and Non-Profit Organizations in Support of International Educational and Cultural Activities; Request for Proposals;

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: The Office of Citizen Exchanges (E/P) announces a request for proposals from private, nonprofit organizations in support of six projects that have been initiated by E/P. Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals.

DATES: This action is effective from the publication date of this notice through Friday, May 17, 1991 when complete proposals must be received.

FOR FURTHER INFORMATION CONTACT: The Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street SW., Washington, DC 20547. To facilitate the processing of your request, please include the name of the appropriate USIA Program Officer, as identified on each announcement, on all inquiries and correspondence.

SUPPLEMENTARY INFORMATION: The Office of Citizen Exchanges of the United States Information Agency (USIA) announces a program to encourage, through limited grants to nonprofit institutions, increased private sector commitment to and involvement in international exchanges. (All international participants will be nominated by USIS personnel overseas and selected by USIA.)

Summary of Initiative Grant Program Ideas

Asset Seizure Laws and the Protection of Individual Rights

Summary:

The Office of Citizen Exchanges proposes the development of a two-week program for up to twelve participants from Australia, Hong Kong, Indonesia, Malaysia, Singapore and

Thailand. This exchange program will explain and encourage the passage of legislation on asset seizure and conspiracy which meet the needs of law enforcement agencies without infringing upon individual rights and civil liberties, using the U.S. experience as a case study. The grantee may be asked to follow up this program with visits to one or more of the participating countries and should include suggestions for these visits in both the program outline and in the budget.

The E/P Program Officer for this project is Hugh Ivory.

Taiwan International Affairs Journalists

Summary:

The Office of Citizen Exchanges proposes the development of a twenty-one day program for up to twelve international affairs journalists from Taiwan designed to give them a greater understanding of the U.S. foreign policymaking process; the role of the states, interest groups and citizens; public debate and lobbying. The project should also provide them a working knowledge of American attitudes towards such things as journalistic ethics, investigation, rules of attribution and background briefings.

The E/P Program Officer for this project is Hugh Ivory.

Program for Administrators and Educators Specializing in Programs for People with Disabilities

Summary

The Office of Citizen Exchanges (E/P) of the United States Information Agency proposes the development of a two-way exchange program which would begin with a three-week U.S. seminar/study tour for up to 10 senior level representatives from government and philanthropic organizations from the Persian Gulf region to the U.S. to: observe and discuss ways counterpart organizations in the U.S. educate, train and provide treatment for individuals with learning and physical disabilities; look at training opportunities for educators, administrators and caretakers responsible for the implementation of programs for people with handicapping conditions; analyze the historical development and societal reaction to the implementation of the Americans with Disabilities Act (ADA); observe the ways various private and public organizations charged with implementing programs for people with disabilities interact to provide support and services to their clientele; expose delegates to various types of Special Education programs available in the U.S. with an ultimate goal of providing possible models for use in Gulf institutions. Several months after the U.S. portion of the program, a team of 2–3 American specialists would travel to the Persian Gulf to conduct follow-up evaluations and seminars targeted for administrators, case workers and therapists responsible for the care and education of people with physical and learning disabilities.

This program would address topics and look at programs that deal specifically with dyslexia, non-dyslexic learning disabilities, Down's Syndrome, retardation, and severe and multiple handicaps, as well as occupational therapy and rehabilitation. It should strive to build linkages between U.S. and Persian Gulf institutions, as well as promote regional cooperation in developing programs and services for people that are physically and mentally challenged.

The E/P Program Officer for this project is Michael Weider.

Cultural Patrimony and Heritage

Summary

This initiative grant is designed to explore current regional and bilateral issues relating to cultural property and will attempt to expand and develop regional and international cooperation in this area. Program focus will develop from a three–week seminar/study tour for up to 10 senior level Ministry of Culture and museum officials from Turkey in the United States, followed by a smaller delegation of American cultural specialists traveling to Turkey for follow-up meetings.

The E/P Program Officer for this project is Katharine Guroff.

Project for Civics Curriculum Development (Africa)

Summary

The Office of Citizen Exchanges of the United States Information Agency proposes the development of a three week seminar/study tour for up to 10 educators, senior level education officials and constitutional scholars from Uganda, Namibia and Nigeria. Using a comparative format, this project would expose the participants to the essential components of civics education in the United States and examine the links between civics education and the acquisition of skills necessary for full citizenship participation. Depending on the interests of the participants, this project could serve as basis for a follow-on project in which U.S. consultants would travel to the three countries to assist development of civics curricula appropriate to the needs of each country.

The project will be executed by a U.S. nonprofit institution which, through its proposal, demonstrates extensive experience and success in coordinating international exchange programs for senior-level African leaders. The institution must also demonstrate substantive working relationships with U.S. public and private sector organizations responsibile for developing, managing or administering civics education programs and policies. The program will take place in summer 1991.

The E/P Program Officer for this project is Stephen Taylor.

Tolerance and Pluralism in Multi-Ethnic, Democratic Societies

Summary

The Office of Citizen Exchanges (E/P) of the United States Information Agency proposes the development of a two-way exchange program which would begin with a three-week U.S. seminar/study tour for up to 10 Israeli citizens from the private and public sectors to observe and discuss the issue of pluralism and tolerance of minorities in democratic societies. The program will take place in medium and small sized municipalities in the United States. At the conclusion of the U.S. program, American and Israeli participants will analyze aspects of pluralism and tolerance, and define parameters for the Israeli follow-on program. American experts participating in the Israeli exchange will be selected at this closing session.

The Israeli component will be a two-week multi-site exchange designed for a delegation of up to five Americans. This program will conclude with a symposium designed to look at major issues relevant to the program theme.

This project will be executed by a U.S. not-for-profit institution which through its proposal, illustrates extensive experience and success in coordinating international exchange programs for senior level foreign visitors. Institutions which have substantive working relationships with Israeli institutions are strongly encouraged to apply.

The E/P Program Officer of this project is Michael Weider.

Funding and Budget Requirements for All Submissions

Since USIA assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of support. Applications should demonstrate substantial financial and

in-kind support using a three-column format that clearly displays cost-sharing support of proposed projects. Those budgets including funds from other sources should provide firm evidence of the funds. The required format follows:

Line item	USIA support	Cost sharing	Total
Travel, per diem, etc			
Total			

Funding assistance is limited to project costs as defined in the Project Proposal Information Requirements (OMB #3116–0175) with modest contributions to defray total administrative costs (salaries, benefits, other direct and indirect costs). Such administrative costs are limited to 20 (twenty) percent of the total funds requested. The recipient institution may wish to cost-share any of these expenses. Organizations with less than four years' experience in conducting international exchange programs are limited to $60,000 of USIA support.

Application Requirements

Detailed concept papers and application materials may be obtained by writing to:
The Office of Citizen Exchange (E/P)
USIA
301 4th Street SW.
Washington, DC 20547
Attention: (Name of the Appropriate E/P Program Officer)
Inquiries concerning technical requirements are welcome.

Proposals must contain a narrative which includes a complete and detailed description of the proposed program activity as follows:

1. A brief statement of what the project is designed to accomplish, how it is consistent with the purposes of the USIA award program, and how it relates to USIA's mission.
2. A concise description of the project, spelling out complete program schedules and proposed itineraries.
3. A statement of what follow-up activities are proposed, how the project will be evaluated, what groups, beyond the direct participants, will benefit from the project and how they will benefit.
4. A detailed budget.
5. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Primary Covered and Lower Tier Covered Transactions, Forms IA–1279 and IA–1280.
6. Compliance with Office of Citizen Exchanges Additional Guidelines for Conferences (if applicable).
7. Compliance with Travel Guidelines for Organizations Inside and Outside Washington, DC (if and as applicable).
8. For proposals requesting $100,000 or more, Certification for Contracts, Grants and Cooperative Agreements, Form M/KG–13.
9. For proposals requesting $100,000, Disclosure of Lobbying Activities (OMB #0348–0046). Note: All required forms will be provided with the application packet.

Review Critieria

USIA will consider proposals based on the following criteria.

1. Quality of Program Idea: Proposals should exhibit originality, substance, rigor, and relevance to Agency mission.
2. Institution Reputation/Ability/Evaluations: Institutional recipients should demonstrate potential for program excellence and/or track record of successful programs. Relevant evaluation results of previous projects are part of this assessment.
3. Project Personnel: Personnel's thematic and logistical expertise should be relevant to the proposed program.
4. Program Planning: Detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity.
5. Thematic Expertise: Proposal should demonstrate expertise in the subject area which guarantees an effective sharing of information.
6. Cross-Cultural Sensitivity/Area Expertise: Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge of geographic area.
7. Ability to Achieve Program Objectives: Objectives should be reasonable, feasible, and flexible. Proposal should clearly demonstrate how the institution will meet the program's objectives.
8. Multiplier Effect: Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional and individual ties.
9. Cost-Effectiveness: The overhead and administrative components should be kept as low as possible. All other items should be necessary and appropriate to achieve the program's objectives.
10. Cost-Sharing: Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Application Deadlines

The Office of Citizen Exchanges will accept proposals from the publication date of this notice through COB *May 17, 1991.* Institutions must submit *16* copies of the final proposal and attachments. Proposals must fully accord with the terms of this Request for Proposals (RFP) as well as with Project Proposal Information Requirements (OMB #3116–0175—provided in application packet). (See "Technical Requirements.") Proposals should be mailed to: The Office of the Executive Director (E/X), Bureau of Educational and Cultural Affairs, (Attention Citizen Exchanges—Initiatives), United States Information Agency, 301 4th Street SW., room 336, Washington, DC 20547.

Dated: March 21, 1991.

William Glade,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 91–8114 Filed 4–5–91; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol 56 No. 67
Monday, April 8, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

Notice

April 3, 1991.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-49), U.S.C. 552B:

DATE AND TIME: April 10, 1991, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 935th Meeting—April 10, 1991, Regular Meeting (10:00 a.m.)

CAH-1.
Project No. 7004-005, City of Rock Falls, Illinois
CAH-2.
Omitted
CAH-3.
Project No. 8185-007, Bluestone Energy Design, Inc.
CAH-4.
Project No. 3407-031, Magic Reservoir Hydroelectric, Inc.
CAH-5.
Project No. 9343-039, American Fork Hydro Associates
CAH-6.
Omitted
CAH-7.
Project No. 3194-010, Joseph M. Keating
CAH-8.
Project No. 6221-019, Weyerhaeuser Company
CAH-9.
Project No. 1855-006, New England Power & Company

Consent Agenda—Electric

CAE-1.
Docket No. ER91-95-000, Puget Sound Power Light Company
CAE-2.
Docket No. ER90-471-002, Central Maine Power Company
CAE-3.
Docket No. ER91-11-001, Nevada Sun-Peak Limited Partnership
CAE-4.
Docket No ER91-167-001 Central Vermont Public Service Corporation
CAE-5.
Docket Nos. ER91-143-001 and EL91-15-001, Public Service Company of New Hampshire
CAE-6.
Docket No. ER91-149-001, Boston Edison Company
CAE-7.
Docket No. ER84-75-007 (Phase II), Southern California Edison Company
CAE-8.
Docket No. EC89-5-001, Southern California Edison Company and San Diego Gas and Electric Company
CAE-9.
Docket No. QF85-253-002, North Powder Energy, Inc.
CAE-10.
Docket No. ER90-539-000, Central Maine Power Company
CAE-11.
Docket No. ER90-535-000, Madison Gas and Electric Company
CAE-12.
Docket Nos. ER89-66-000, ER89-125-000, ER89-228-000, ER89-633-000, ER90-29-000, ER90-73-000 and ER90-339-000, Canal Electric Company

Consent Agenda—Oil and Gas

CAG-1.
Docket No. RP91-115-000, Midwestern Gas Transmission Company
CAG-2.
Docket No. RP91-116-000, Raton Gas Transmission Company
CAG-3.
Docket No. RP91-117-000, Viking Gas Transmission Company
CAG-4.
Docket No. RP91-119-000, Texas Eastern Transmission Corporation
CAG-5.
Docket No. RP91-120-000, Questar Pipeline Company
CAG-6.
Docket No. TM91-03-51-000, Great Lakes Gas Transmission Company
CAG-7.
Docket No. PR91-4-000, Hill Transportation Company, Inc.
CAG-8.
Docket No. PR91-3-000, Five Flags Pipe Line Company
CAG-9.
Docket No. TQ91-4-25-000, Mississippi River Transmission Corporation
CAG-10.
Docket No. TM91-7-29-000, Transcontinental Gas Pipeline Corporation
CAG-11
Docket No TA91-1-82-000 Viking Gas Transmission Company
CAG-12
Docket No RP91-44-000 Carnegie Natural Gas Company
CAG-13
Docket No RP91-71-002, Mississippi River Transmission Corporation
CAG-14
Docket No. RP89-250-005, Columbia Gas Transmission Corporation
Docket No RP89-249-003, Columbia Gulf Transmission Company
CAG-15
Docket Nos. RP88-259-045, CP89-1227-010 RP89-136-024 and RP90-124-007 Northern Natural Gas Company
CAG-16
Docket No. RP90-104-008, Texas Gas Transmission Corporation
CAG-17
Docket Nos. RP89-251-013 and TA90-1-1-011, Alabama-Tennessee Natural Gas Company
CAG-18.
Docket No. RM91-2-007, Mechanisms for Passthrough of Pipeline Take-or-Pay Buyout Costs
Docket Nos. RP91-72-001, RP91-73-001, RP91-74-001, RP91-75-001, RP88-80-016, RP89-153-005, RP89-154-004, RP90-96-004, TM89-6-17-002, TM89-10-17-003, TM90-7-17-004, TM90-11-17-002 and TM90-14-17-002, Texas Eastern Transmission Corporation
CAG-19.
Docket No. RM87-34-065, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol
CAG-20.
Omitted
CAG-21.
Docket No. RP91-68-003, Penn-York Energy Corporation
CAG-22.
Omitted
CAG-23.
Docket Nos. RP89-179-006, CP89-1488-001 and CP89-1489-001, Western Gas Interstate Company
CAG-24.
Omitted
CAG-25.
Omitted
CAG-26.
Docket Nos. IS87-14-002 and OR88-3-001, Buckeye Pipe Line Company, L.P
CAG-27.
Omitted
CAG-28.
Docket No. RP90-22-011, Algonquin Gas Transmission Company
CAG-29.
Docket No. GP91-7-000, Bureau of Land Management, Section 108 Determination HiGar Petroleum, Inc., No. 1 USA "D" Well, FERC No. JD91-02669

CAG-30.
Docket Nos. CI79-211-001, CI79-212-002, CI87-754-000 and 001, Mobil Producing Texas & New Mexico, Inc.
CAG-31.
Docket Nos. CP90-154-003 and CP90-333-002, Tennessee Gas Pipeline Company
Docket No. CP90-910-002, Tennessee Gas Pipeline Company, United Gas Pipe Line Company and Midwestern Gas Transmission Company
CAG-32.
Docket No. CP90-1654-001, Tennessee Gas Pipeline Company and Transcontinental Gas Pipe Line Corporation
CAG-33.
Docket Nos. CP89-2047-004, CP89-2048-004, CP90-1794-001, CP90-1795-001, CP90-1796-001, CP90-1797-001, CP90-1798-001, CP90-1799-001, CP90-1800-001, CP90-1801-001, CP90-1802-001, CP90-1803-001, CP90-1804-001, CP90-1805-001, CP90-1806-001, CP90-1807-001, CP90-1808-001, CP90-1809-001 and CP90-1810-001, Kern River Gas Transmission Company
CAG-34.
Omitted
CAG-35.
Docket No. CP89-1627-001, Williams Natural Gas Company
CAG-36.
Docket Nos. CP91-1495-000 and CP91-1496-000, Columbia Gas Transmission Corporation
CAG-37.
Docket No. CP91-1636-000, Viking Gas Transmission Company
CAG-38.
Docket No. CP91-1472-000, Northern Natural Gas Company, a Division of Enron Corp.
CAG-39.
Docket No. CP90-521-000, Transwestern Pipeline Company
CAG-40.
Docket No. CP88-686-001, Texas Gas Transmission Corporation
CAG-41.
Docket No. CP91-321-000, Natural Gas Pipeline Company of America
CAG-42.
Omitted
CAG-43.
Docket No. CP90-524-000, Trunkline LNG Company
CAG-44.
Docket No. CP90-2230-000, Transcontinental Gas Pipe Line Corporation
CAG-45.
Docket No. RP91-26-001, El Paso Natural Gas Company
CAG-46.
Docket No. RP91-114-000, Sabine Pipe Line Company

Hydro Agenda

H-1.
Docket No. RM89-7-000, Regulations Governing Submittal of Proposed Hydropower License Conditions and Other Matters. Final Rule.

Electric Agenda

E-1.
Docket No. ER91-195-000, Western Systems Power Pool. Order on rate filing.
E-2.
Docket No. PL91-1-000, Notice of Public Conference and Request for Comments on Electricity Issues. Notice and request for comments.

Miscellaneous Agenda

M-1.
Docket No. RM91-10-000, Comprehensive Review of the Commission's *Ex Parte* Regulations Using Negotiated Rulemaking Procedures
M-2.
Docket No. RM91-12-000, Administrative Dispute Resolution. Notice of inquiry.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1.
Docket No. RM91-11-000, In Re Pipeline Service Obligations
Docket No. RM91-3-000, Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations
Docket No. RM90-15-000, Revisions to the Purchased Gas Adjustment Regulations. Notice of public conference with respect to pipeline service obligations and comparability of pipeline service issues.
PR-2.
Docket Nos. RP85-209-028, RP86-93-010, RP86-158-13, CP86-246-006, RP87-34-013, TC88-6-011, RP88-8-013, RP88-27-022, RP88-92-022, RP88-265-007, CP88-263-015, RP88-264-018, RP84-42-009, RP89-138-008, CP88-6-008, CP88-329-003, CP88-478-004 and IN86-5-015, United Gas Pipe Line Company
Docket No. CP88-440-004, Southern Natural Gas Company
Docket No. CP87-524-010, Texas Gas Transmission Corporation. Order on rehearing.

II. Producer Matters

PF-1.
Reserved

III. Pipeline Certificate Matters

PC-1.
Docket No. CP90-2214-000, El Paso Natural Gas Company. Preliminary determination on nonenvironmental issues.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8352 Filed 4-4-91; 3:55 pm]

BILLING CODE 6717-01-M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting

At the meeting on April 1, 1991, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for April 29, 1991, in Washington, DC. The members will consider: (1) The anticipated opinion and recommended decision of the Postal Rate Commission in Docket No. R90-1 and (2) possible adjustments to the postage rates for non-profit mail.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Griesemer, Hall, Mackie, Nevin, Pace and Setrakian; Postmaster General Frank, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Hughes.

The Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the discussion of these matters is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)], because it is likely to disclose information in connection with proceedings under Chapter 36 of title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code.

The Board determined further that pursuant to section 552b(c)(10) of title 5 United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, these discussions are exempt because they are likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after an opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matters be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3) and (10) of title 5, United States Code; section 410 (c)(4) of title 39, United States Code; and section 7.3 (c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 91-8311 Filed 4-4-91; 8:45 am]

BILLING CODE 7710-12-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5

U.S.C. 552b), notice is hereby given that at 2:10 p.m. on Tuesday, April 2, 1991, the Board of Directors of the Resolution Trust Corporation and the Federal Deposit Insurance Corporation met in joint closed session to consider corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), concurred in by Vice Chairman Andrew C. Hove, Jr. and Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsection (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550–17th Street, N.W., Washington, D.C.

Dated: April 3, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.

Executive Secretary.

[FR Doc. 91–8227 Filed 4–3–91; 4:19 pm]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 56, No. 67
Monday, April 8, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amdt. No. 330]

Food Stamp Program; Food Stamp Application and Income Exclusion Provisions of the 1990 Farm Bill

Correction

In rule document 91-7371, beginning on page 12843, in the issue of Thursday, March 28, 1991, make the following correction:

§ 273.11 [Corrected]

On page 12845, in the third column, in the fourth line, "in" should read "is".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs—Income Eligibility Guidelines

Correction

In notice document 91-6583 beginning on page 11726 in the issue of Wednesday, March 20, 1991, make the following correction:

1. On page 11727, in the table, under Alaska, in the second column, in the first line, the entry "8,297", should read, "8,290".

BILLING CODE 1505-01-D

CENTRAL INTELLIGENCE AGENCY

Secrecy/Nondisclosure Agreements; Clarification of the Rights and Obligations of All CIA Employees, Former CIA Employees, and Other Individuals Who Signed CIA or DCI-Sponsored Secrecy or Nondisclosure Agreements Prior to the Date of This Notice

Correction

In notice document 91-6757 appearing on page 11987, in the issue of Thursday, March 21, 1991, in the second column, in the first full paragraph, in the sixth line, "consisted" should read "consistent".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Mobil Exploration & Producing U.S. Inc. From an Objection by the State of North Carolina

Correction

In notice document 91-6903, appearing on page 12185, in the issue of Friday, March 22, 1991. In the third column, in the first full paragraph, in the fifth line, "application" should read "publication".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Proposed Extensions and Revisions of Exploration Licenses

Corrections

In notice document 91-7056 beginning on page 12508, in the issue of Tuesday, March 26, 1991, make the following corrections:

On page 12509, in the 2d column, in the 3d paragraph, in the 8th line, "13" should read "7", and in the 14th line "7" should read "13".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services Rehabilitation Training Program; Meeting

Correction

In notice document 91-6271 beginning on page 11411 in the issue of Monday, March 18, 1991, make the following corrections:

1. On page 11411, in the third column, under SUMMARY, in the second paragraph, in the third line "or" should read "of".

2. On page 11412, in the first column, under FOR FURTHER INFORMATION CONTACT, in the sixth line "(20) 732-1400" should "(202) 732-1400".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

46 CFR Chapter IV

[Docket No. 91-14]

Inquiry Concerning Use and Effect of Surcharges by Common Carriers and Conferences

Corrections

In proposed rule document 91-6775 beginning on page 12143, in the issue of Friday, March 22, 1991, make the following corrections:

1. The docket number should read as set forth above.

2. In the third column, under **DATES**, in the fourth line, "June" should read "July".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0055]

Conjugated Estrogens Tablets; Withdrawal of Approval of 28 Abbreviated New Drug Applications

Correction

In notice document 91-6960 beginning on page 12376, in the issue of Monday, March 25, 1991, make the following correction:

On page 12377, in the 2d column, in paragraph (1), the 13th line should read

"applications listed above are not shown".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-060-01-4333-12; UTU-65546]

Realty Actions; Sales, Leases, Etc.; Utah

Correction

In notice document 90-29781 appearing on page 52223, in the issue of Thursday, December 20, 1990, make the following correction:

On page 52223, in the second column, in the land description T. 26 S., R 22 E., SLM, UT (Grand Co.), in Section 9, the second line should read "SE¼, N½SE¼ SE¼, E½SW¼SE¼SE¼, ".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[Order No. 1484-91]

Designation of Kuwait Under Temporary Protected Status Program

Correction

In notice document, 91-7188 beginning on page 12745, in the issue of Wednesday, March 27, 1991, in the third column, under **EFFECTIVE DATES**, in the fourth line, "1992." should read "1991."

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[Attorney General Order No. 1485-91]

Designation of Lebanon Under Temporary Protected Status Program

Correction

In notice document 91-7190 appearing on page 12746, in the issue of Wednesday, March 27, 1991, in the first column, under **EFFECTIVE DATES**, in the fourth line, "March 22" should read "March 27".

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 575

RIN 3206-AE21

Aggregate Limitation on Pay; Advances in Pay; Recruitment and Relocation Bonuses; and Retention Allowances

Correction

In rule document 91-7263 beginning on page 12833 in the issue of Thursday, March 28, 1991, make the following correction:

§ 575.104 [Corrected]

On page 12839, in the 2nd column, in § 575.104(c)(1), in the 10th line, "has" should read "was".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, and 135

[Docket No. 25780; Amdts. 121-222, 125-15, 135-39]

RIN 2120-AC86

Minimum Equipment List (MEL) Requirements

Correction

In rule document 91-6828 beginning on page 12306, in the issue of Friday, March 22, 1991, make the following corrections:

1. On page 12306, in the second column, in the **note1**, in the third line, "with holder" should read "with the holder"; and in the last line "aircraft.)" should read "aircraft operated.)"

§ 121.628 [Corrected]

2. On page 12310, in the second column, in § 121.628(a)(4), in the fifth line from the bottom, "Record" should read "Records".

§ 135.179 [Corrected]

3. On page 12311, in the third column, in § 135.179(c), in the fifth line, "§ § 21.297" should read "§ § 21.197".

BILLING CODE 1505-01-D

federal register

Monday
April 8, 1991

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 61, 63, and 65
Relief for Participants in Operation Desert Shield/Storm; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 63, and 65

[Docket No. 26529; Notice No. 91-10]

RIN 2120-AE00

Relief for Participants in Operation Desert Shield/Storm

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to issue a Special Federal Aviation Regulation (SFAR) that will provide certain regulatory relief to civilian and military personnel who have been or will be serving in an assignment in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992. This proposed SFAR would permit Flight Standards District Offices (FSDO) to accept expired flight instructor certificates, inspection authorizations, and/or airman written test reports for meeting certain eligibility requirements under the current rules.

This action is necessary, because the FAA believes these personnel may be unable to meet the regulatory time limits of their flight instructor certificate, inspection authorization, and/or airman written test report as a result of their assignment. This action is intended to alleviate potential hardships that would result from the imposition of time requirements established in the regulations on flight instructor certificates, inspection authorizations, and/or airman written test reports.

DATES: Comments must be received on or before April 29, 1991.

ADDRESSES: Send comments on this notice in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, attn: Rules Docket (AGC-10), Docket No. 26529, 800 Independence Ave. SW., Washington, DC 20591; or deliver comments in triplicate to: FAA Rules Docket, room 915-G, 800 Independence Ave. SW., Washington, DC. Comments may be examined in the Rules Docket on weekdays, except Federal holidays, from 8:30 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: John D. Lynch—Regulations Branch, AFS-850, General Aviation and Commercial Division, 800 Independence Ave. SW., Washington, DC 20591; telephone, (202) 267-8150.

SUPPLEMENTARY INFORMATION:

Comments Invited

All interested persons are invited to comment on this proposed SFAR by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impacts that might result from adoption of this proposed SFAR are invited. Communications should identify the regulatory docket or amendment number, and be submitted in triplicate to the address noted previously in the "Address" section of this document. All communications received will be considered by the Administrator. The rules in this proposed SFAR may be changed as a result of comments received from the public. All comments submitted will be available for examination in the Rules Docket in room 915-G of the FAA Building. Persons wishing to have the FAA acknowledge receipt of their comments must submit a self-addressed, stamped postcard with the following statement: "Comments to Docket Number 26529. The postcard will then be dated, time stamped, and returned by the FAA.

The twenty day comment period provided in this notice is shorter than the comment period normally provided by the FAA. The FAA is acting expeditiously in this rulemaking because Desert Shield/Storm participants are returning to the United States in large numbers. Regulatory relief, if it is to be granted, must be provided in the near future to be of value to those now returning. Since this proposed SFAR is relieving in nature, the FAA may adopt it as a final rule in an immediate effective date when the final rule notice is issued.

Availability of the NPRM

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of Public Affairs, attn: APA-200, 800 Independence Avenue SW., Washington, DC 20591, or by calling the Office of Public Affairs at (202) 267-3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future notices should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On August 2, 1990, when Iraq invaded Kuwait, U.S. military and civilian personnel were rushed to the Middle East/Persian Gulf area or were assigned to military installations away from their home station. For the most part, these personnel had only enough time to take care of personal, immediate affairs prior to leaving. The FAA has received numerous correspondence from some of these personnel asking how they can meet the regulatory time constraints relating to the expiration of their flight instructor certificate, inspection authorization, and airman written test report while serving an assignment in Operation Desert Shield/Storm. These personnel have stated that because of their assignment, they may not be able to meet the regulatory time constraints that relate to the expiration of their flight instructor certificate, inspection authorization, and/or airman written test report.

Statement of the Problem

In response to the numerous inquiries received from civilian and military personnel serving in support of Operation Desert Shield/Storm, the FAA believes it needs to provide some regulatory relief to these people who will be unable to comply with the regulatory time constraints of their flight instructor certificate, inspection authorization, and/or airman written test report as a result of their assignment. There may not be any FAA examiners/inspectors or facilities readily available in the area where these people will be located. Also, the FAA believes that even those civilian and military personnel who are activated for Operation Desert Shield/Storm, but remain located in the United States or at a location outside the Middle East/Persian Gulf area, may find their work schedules so demanding that it would be impossible to schedule a practical test. Most of these people will be located at a military base that is away from their normal training or work environment. As a result, many of these people will be unable to comply with the regulatory time limits of their flight instructor certificate, inspection authorization, and/or airman written test report, as required by the appropriate Federal Aviation Regulations (FAR). Therefore, the FAA believes the uniqueness of the situation warrants consideration for adopting this proposed SFAR.

History

In accordance with § 61.39(b), airline transport pilot (ATP) written test reports are permitted to be extended beyond the 24-month expiration date. That rule allows an applicant for an ATP certificate to take the practical test for that certificate after the 24-month time period has elapsed on the written test

report. However, the provisions of that rule require the applicant to (1) have been continuously employed as a pilot or as a pilot assigned to flight engineer duties since passing the written test; or (2) be participating in an approved pilot training program of a U.S. air carrier or commercial operator.

In addition, grants of exemptions have been issued from § 61.39 (a)(1) and (b), when the FAA had determined that the petitioner's situation was unique and safety would not be compromised. In every case where a grant of exemption was issued, the petition involved an extension of the expiration date of an ATP written test report for a pilot of a Part 121 air carrier company and the pilot had been furloughed.

In all cases not involving the ATP written test reports, the FAA has denied all requests for exemption. The FAA has consistently stated in those denials of exemption, that, "* * * * the 24-month validity period for written test reports is a reasonable one and provides some assurance that an applicant has appropriate and reasonably current aeronautical knowledge at the time of the flight test."

However, the FAA believes the situation for personnel involved in Operation Desert Shield/Storm is different. By proposing this action, the FAA is not changing its past position on this issue because this proposed SFAR would only be applicable for a limited time to those civilian and military personnel serving in support of Operation Desert Shield/Storm.

In the previously issued denials of exemption on this matter, the FAA based its findings on the fact that the 24-month validity period for airman written test reports is reasonable and provide some assurance that an applicant has appropriate and reasonably current aeronautical knowledge at the time of the flight test. In the past, the FAA has received numerous inquiries from persons requesting extension of their airman written test report because they had to reschedule their practical test to a date that was after the expiration date on the written test report. While the FAA was sympathetic to the needs of previous petitioners and realizes that there are times when practical tests have to be cancelled or rescheduled, previous petitions for extension of time were nonetheless denied for the reason cited above, and because the petitioners were free to schedule and attend practical tests on numerous occasions during the 24-month period. However, the people involved in Operation Desert Shield/Storm do not have the same opportunity to meet the time constraints of their airman written test report, because no FAA examiners/inspectors or facilities are readily available in the area and/or because their work schedules and orders may prohibit them from leaving to take the flight/practical tests.

Discussion of the Proposals in this NPRM

Introduction

The FAA believes this proposed SFAR is important for providing regulatory relief for those civilian and military personnel, who are required to serve in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992.

Flight Instructor Certificate

This proposed SFAR would permit Flight Standards District Offices (FSDO) to accept an expired flight instructor certificate to show eligibility for the renewal of a person's flight instructor certificate in accordance within the provisions of § 61.197. Therefore, civilian and military personnel, who can show the kind of evidence required by this proposed SFAR, would be permitted to apply for renewal of their flight instructor certificates in accordance with § 61.197. The provisions of this proposed SFAR would apply only to those persons who complete the appropriate requirements of § 61.197 within 6 calendar months following the date of reassignment from Operation Desert Shield/Storm or by December 31, 1992, whichever date is sooner. In addition, this proposed SFAR would apply only to those personnel whose flight instructor certificates expired within the time period from 60 days prior to their assignment to 60 days after reassignment from Operation Desert Shield/Storm. These civilian or military personnel would not be permitted to excercise the privileges of their flight instructor certificate if it has expired, but would be permitted to renew their flight instructor certificate in accordance with the provisions of § 61.197.

Airman Written Test Reports of Parts 61, 63, and 65

Additionally, this proposed SFAR would permit an extension of the expiration date of the airman written test reports of parts 61, 63, and 65. The provisions of this proposed SFAR would apply only to those persons who complete the required flight/practical test within 6 calendar months following the date of reassignment from Operation Desert Shield/Storm or by December 31, 1992, whichever date is sooner. Furthermore, this proposal would apply only to those personnel whose airman written test reports expired within the time period from 60 days prior to their assignment to 60 days after reassignment from Operation Desert Shield/Storm.

Inspection Authorization of Part 65

This proposed SFAR would permit FSDO's to accept an expired inspection authorization to show eligibility for renewal of a person's inspection authorization in accordance with the appropriate provisions of § 65.93. Therefore, civilian and military personnel, who can show the kind of evidence required by this proposed SFAR, would be permitted to apply for renewal of their inspection authorization in accordance with § 65.93. The provisions of this proposed SFAR would apply only to those persons who otherwise satisfy the requirements of § 65.93 for renewal within 6 calendar months following the date of reassignment from Operation Desert Shield/Storm or by December 31, 1992, whichever date is sooner. Furthermore, this proposed SFAR would apply only to those civilian or military personnel whose inspection authorization expired within the time period from 60 days prior to assignment to 60 days after reassignment from Operation Desert Shield/Storm. These civilian or military personnel would not be permitted to exercise the privileges of their inspection authorization if it has expired, but would be permitted to renew their inspection authorizations in accordance with the provisions of § 65.93.

Evidence of Operation Desert Shield/Storm Participation

The FAA has determined that an assignment in support of Operation Desert Shield/Storm will mean a person who served a tour of duty during the time period from August 2, 1990 to December 31, 1992. An assignment in support of Operation Desert Shield/Storm may be an assignment at a location in the Persian Gulf/Middle East Gulf area or at some other location, but the person's assignment must have been during the time period from August 2, 1990 to December 31, 1992. The 6 calendar month grace period in this proposed SFAR will be calculated from the date shown on the official orders or documentation that reassigns the person from Operation Desert Shield/Storm. The person's flight instructor certificate, inspection authorization, and/or airman written test report must have expired within the time period from 60 days prior to the assignment date on the person's assignment orders/

documentation to 60 days following reassignment. The evidence required to substantiate an assignment must show the dates of assignment to and reassignment from support of Operation Desert Shield/Storm, and shall be one of the following:

1. Official government documents showing the person was a civilian on official duty for the United States Government in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

2. Military orders showing the person was a member of the uniformed services assigned to duty in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

3. Military orders showing the person was an active member of the National Guard or Reserve called to active duty in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992; or

4. A letter from the unit commander providing inclusive dates during which the person served in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992.

General

The FAA does not believe that the regulatory relief being proposed in this SFAR will result in a derogation of safety, because the checks and balances provided by the FAA's airman certification procedures will assure that safety is maintained. This belief is based on the fact that prior to renewing a flight instructor certificate, a person would be required to comply the appropriate requirements of § 61.197. In the case of an expired airman written test report, a person would be required to complete a flight/practical test, in accordance with the appropriate rules of parts 61, 63, or 65, as appropriate. A person who holds inspection authorization under part 65, would still be required to complete a refresher course, pass an oral test, or otherwise meet the requirements of § 65.93. Furthermore, the FAA intends to issue instructions to its Flight Standards District Offices to monitor the situation very closely to ensure that safety is maintained. Examiners and inspectors will be directed to give especially close attention during flight/practical tests on any showing of deficiencies in current aeronautical knowledge by those applicants qualifying under this proposed SFAR. If a major safety problem arises, the FAA will not hesitate to take corrective action.

This proposed SFAR would not apply to the medical certificate and pilot proficiency requirements of §§ 61.23, 61.55, 61.56, 61.57, and 61.58. In addition, it would not apply to recency of experience requirements of § 65.83 for certificated mechanics. The FAA does not believe the requirements cited in those rules should be waived, because they involve a person's medical fitness, demonstration of piloting skills, and/or mechanic skills. The FAA does not believe requiring compliance with those rules will impose an additional hardship on our civilian and military personnel assigned to Operation Desert Shield/Storm. Upon their return to the United States, these people will be handled as any other pilot or mechanic, and compliance with these rules will not impose any additional requirement. Furthermore, the FAA believes that waiving these requirements would not be in the public interest and would have an adverse effect on safety. Therefore, those civilian and military personnel assigned to Operation Desert Shield/Storm whose medical certificate, pilot proficiency, pilot recurrency, and/or mechanic recency of experience requirements have lapsed will have to satisfy the normal requirements that relate to exercising the privileges of an airman certificate.

Regulatory Evaluation

Regulatory Evaluation Summary

The FAA has determined that the expected economic impact of this proposed SFAR is so minimal that it does not warrant a full regulatory evaluation. The basis of this determination is that the proposal imposes no costs on society because an equivalent level of safety will be maintained while providing unquantifiable benefits to certificate holders who are the subject of the rule. Since benefits exceed costs, the FAA believes that the proposal is consistent with the objectives of Executive Order 12291.

International Trade Impact Statement

This proposed SFAR will not affect international trade involving aviation products or services. Therefore, the FAA certifies this proposal will not eliminate existing or create additional barriers to the sale of foreign aviation products or services in the United States. This proposed SFAR will not eliminate existing or create additional barriers to the sale of U.S. aviation products and services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of entities." It is certified that this proposed SFAR will neither have a significant negative or positive economic impact on a substantial number of small entities.

Federalism Implications

The provisions in this proposed SFAR will not have a substantial negative effect 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 proposed SFAR will not have any federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons previously discussed in this proposal, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed SFAR will not be major under Executive Order 12291. In addition, the FAA certifies that this proposed SFAR will not have a significant impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposed SFAR is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation has not been completed for this proposed SFAR.

List of Subjects

14 CFR Part 61

Aircraft, Aircraft pilots, Airmen, Airplanes, Air safety, Air transportation, Aviation safety, Balloons, Helicopters, Rotorcraft, Students.

14 CFR Part 63

Air safety, Air transportation, Airman. Aviation safety, Safety, Transportation.

14 CFR Part 65

Airman, Aviation safety, Air Transportation, Aircraft.

The Proposed Rule

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 61, 63, and 65 of the Federal Aviation Regulations (14 CFR parts 61, 63, and 65) as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449; January 12, 1983).

2. Contrary to the appropriate sections of this part, a Special Federal Aviation Regulation is proposed to read as follows:

Special Federal Aviation Regulations

* * * * *

SFAR No. XX—Relief For Participants in Operation Desert Shield/Storm Sections

1. Applicability
2. Required documents
3. Expiration date

1. Applicability. Contrary provisions of part 61 notwithstanding, under the procedures prescribed herein, Flight Standards District Offices (FSDO) are authorized to accept an expired flight instructor certificate to show eligibility for the renewal of a person's flight instructor certificate in accordance within the provisions of § 61.197, or an expired written test report to show eligibility under part 61 to take a flight/practical test, provided—

a. It is submitted by a civilian or military person who served in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

b. The person's flight instructor certificate and/or airman written test report expired within the time period from 60 days prior to assignment to 60 days after reassignment from support of Operation Desert Shield/Storm; and

c. The person complies with the appropriate requirements of § 61.197 or completes the required flight/practical test, as appropriate, within 6 calendar months following the date of reassignment from Operation Desert Shield/Storm or by December 31, 1992, whichever date is sooner.

2. Required documents. The FSDO and applicant shall include one of the following documents with the airman application, and the documents must show the dates of assignment to and reassignment from support of Operation Desert Shield/Storm:

a. Official government documents showing the person was a civilian on official duty for the United States Government in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

b. Military orders showing the person was a member of the uniformed services assigned to duty in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

c. Military orders showing the person was an active member of the National Guard or Reserve called to active duty in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992; or

d. A letter from the unit commander providing inclusive dates during which the person served in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992.

3. Expiration date. This SFAR expires December 31, 1992, unless sooner superceded or rescinded.

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

3. The authority citation for part 63 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449; January 12, 1983).

4. Contrary to the appropriate sections of this part, a Special Federal Aviation Regulation is proposed to read as follows:

Special Federal Aviation Regulations

* * * * *

SFAR No. XX—Relief For Participants in Operation Desert Shield/Storm Sections

1. Applicability
2. Required documents
3. Expiration date

1. Applicability. Contrary to provisions of part 63 notwithstanding, under the procedures prescribed herein, Flight Standards District Offices (FSDO) are authorized to accept an expired written test report to show eligibility under §§ 63.33 and 63.57 to take a flight/practical test, provided

a. It is submitted by a civilian or military person who served in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992; or

b. The person's airman written test report expired within the time period from 60 days prior to assignment to 60 days after reassignment from support of Operation Desert Shield/Storm; and

c. The person completes the required flight/practical test within 6 calendar months following the date of reassignment from Operation Desert Shield/Storm or by December 31, 1992, whichever date is sooner.

2. Required documents. The FSDO and applicant shall include one of the following documents with the airman application, and the documents must show the dates of assignment to and reassignment from support of Operation Desert Shield/Storm:

a. Official government documents showing the person was a civilian on official duty for the United States Government in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

b. Military orders showing the person was a member of the uniformed services assigned to duty in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

c. Military orders showing the person was an active member of the National Guard or Reserve called to active duty in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

d. A letter from the unit commander providing inclusive dates during which the person served in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992.

3. Expiration date. This SFAR expires December 31, 1992, unless sooner superceded or rescinded.

PART 65—CERTIFICATION: AIRMAN OTHER THAN FLIGHT CREWMEMBERS

5. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449; January 12, 1983).

6. Contrary to the appropriate sections of this Part, a Special Federal Aviation Regulation is proposed to read as follows:

Special Federal Aviation Regulations

* * * * *

SFAR No. XX—Relief For Participants in Operation Desert Shield/Storm Sections

1. Applicability
2. Required documents
3. Expiration date

1. Applicability. Contrary to provisions of part 65 notwithstanding, under the procedures prescribed herein,

Flight Standards District Offices (FSDO) are authorized to accept an expired written test report to show eligibility to take a practical test required under this Part and/or renew an expired inspection authorization to show eligibility for renewal under § 65.93, provided—

a. The person is a civilian or military person who served in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

b. The person's airman written test report and/or inspection authorization expired within the time period from 60 days prior to assignment to 60 days after reassignment from support of Operation Desert Shield/Storm; and

c. The person completes the required practical test within 6 calendar months following the date of reassignment from Operation Desert Shield/Storm or by December 31, 1992, whichever date is sooner.

2. Required documents. The FSDO and applicant shall include one of the following documents with the airman application, and the documents must show the dates of assignment to and reassignment from support of Operation Desert Shield/Storm:

a. Official government documents showing the person was a civilian on official duty for the United States Government in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

b. Military orders showing the person was a member of the uniformed services assigned to duty in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992;

c. Military orders showing the person was an active member of the National Guard or Reserve called to active duty in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992; or

d. A letter from the unit commander providing inclusive dates during which the person served in support of Operation Desert Shield/Storm during the time period from August 2, 1990 to December 31, 1992.

3. Expiration date. This SFAR expires December 31, 1992, unless sooner superceded or rescinded.

Issued in Washington, DC, on April 3, 1990.

Thomas C. Accardi,

Acting Director, Flight Standards Service.

[FR Doc. 91-8145 Filed 4-3-91; 12:43 pm]

BILLING CODE 4910-13-M

federal register

Monday
April 8, 1991

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 47 and 52

Federal Acquisition Regulation (FAR); Returnable Cylinders and Other Containers; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 47 and 52

[FAR Case 91-10]

Federal Acquisition Regulation (FAR); Returnable Cylinders and Other Containers

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to the Federal Acquisition Regulation (FAR) concerning parts 47 and 52 to establish policy for the Government use and accountability of contractor-owned cylinders and other containers.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 8, 1991, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4041, Washington, DC 20405.

Please cite FAR Case 91-10 in all correspondence related to this issue. For information pertaining to this case, please refer to Ms. Jeritta Parnell at (202) 501-4082.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR Case 91-10.

SUPPLEMENTARY INFORMATION:

A. Background

These changes arose as a result of the Defense Management Review Regulatory Reform initiative. It was found that coverage contained in FAR supplements would be useful for all Federal contracting activities. Therefore, the Councils have proposed adding coverage to the FAR to provide for the Government use and accountability of contractor owned cylinders and other containers.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the requirements specified therein prescribe Government responsibilities related to return and accountability of returnable cylinders and other containers without imposing an additional burden on contractors. An Initial Regulatory Flexibility Analysis has therefore not been performed. Comments from small entities concerning the affected FAR subsection will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 610, (FAR Case 91-10) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 47 and 52

Government procurement.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 47 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 47 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 47—TRANSPORTATION

2. Section 47.305-17 is added to read as follows:

47.305-17 Returnable cylinders and other containers.

The contracting officer shall insert the clause at 52.247-66, Returnable Cylinders and Other Containers, in a solicitation and contract whenever the contract involves the purchase of gas in contractor-furnished returnable cylinders and the contractor retains title to the cylinders. A variation of the clause may also be used in contracts for other supplies involving reels, spools, drums, carboys, liquid petroleum gas containers, or other returnable containers when the contractor is to retain title to the containers. The contracting officer may vary the 30-day time period specified in the clause to comply with customary commercial practice.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.247-66 is added to read as follows:

52.247-66 Returnable cylinders and other containers.

As prescribed in 47.305-17, insert a clause substantially as follows:

Returnable Cylinders and Other Containers (Mar 1991)

(a) Cylinders/containers shall remain the Contractor's property but shall be loaned without charge to the Government for a period of thirty (30) days after delivery to the f.o.b. point specified in the contract. Beginning with the first day after the loan period expires, to and including the day the cylinders/containers are delivered to the Contractor (if the original delivery was f.o.b. origin) or are delivered or are made available for delivery to the Contractor's designated carrier (if the original delivery was f.o.b. destination), the Government shall pay the Contractor a rental of $ _____ *[Insert dollar amount for rental]* per cylinder/container per day, regardless of type or capacity.

(b) This rental charge will be computed separately for cylinders/containers for each type, size, and capacity, and for each point of delivery named in the contract. A credit of thirty (30) cylinder/container days will accrue to the Government for each cylinder/container, regardless of type or capacity, delivered by the Contractor. After the initial thirty- (30-)day period, a debit of one (1) cylinder/container day will accrue to the Government for each cylinder/container for each day after delivery to the f.o.b. point specified in this contract. At the end of the contract, if the debit total exceeds the credit total, rental shall be charged for the difference. If the credit total equals or exceeds the debit total, no rental shall be charged. No rental shall accrue to the Contractor in excess of replacement value per cylinder/container specified in paragraph (c) of this clause.

(c) For each cylinder/container lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value as follows, less the allocable rental paid for that cylinder/container: *[Insert the cylinder/container types, sizes, capacities, and associated replacement values.]*

(d) Cylinders/containers lost or damaged beyond repair and paid for by the Government shall become

Government property, subject to the following: If any lost cylinder/container is located within ____ *[Insert number of days]* calendar days after payment by the Government, it may be returned to the Contractor by the Government, and the Contractor shall pay to the Government the replacement value, less rental computed in accordance with paragraph (a) of this clause, beginning at the expiration of the thirty- (30-)day loan period specified in paragraph (a) of this clause, and continuing to the date on which the cylinder/container was delivered to the Contractor.

(End of clause)

[FR Doc. 91-8141 filed 4-5-91; 8:45 am]

BILLING CODE 6820-34-M

federal register

Monday
April 8, 1991

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 31 and 32
Federal Acquisition Regulation; Precontract Costs; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 31 and 32

[FAR Case 91-12]

Federal Acquisition Regulation (FAR); Precontract Costs

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to the Federal Acquisition Regulation (FAR) to amend the cost principle at 31.205-32, Precontract costs, and add a related clause at 52.231-1. The proposed language and accompanying clause will require the contracting parties to agree to a firm date, before the effective date of the contract, on which recognition of incurred costs would begin. The rule would also require the parties to establish a not-to-exceed amount for such costs.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 7, 1991, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4041, Washington, DC 20405. Please cite FAR Case 91-12 in all correspondence related to this issue. For information pertaining to this case, please refer to Mr. Jerry Olson at (202) 501-3221.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR Case 91-12.

SUPPLEMENTARY INFORMATION:

A. Background

On October 16, 1989, the Department of Transportation Board of Contract Appeals (BCA) in Decision No. 2007 stated that the language "pursuant to negotiation" in FAR 31.205.32 meant that precontract costs could be incurred as a result of the solicitation and award process, not that these costs needed to be discussed during negotiations. The BCA said that if an agency wants to control precontract costs, it should put in its solicitations specific provisions prohibiting or regulating the allowance of costs incurred prior to award.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles to not apply. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subsection will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 610 (FAR Case 91-12) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 31 and 52

Government procurement.

Dated: March 28, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 31 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 31 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 31.205-32 is revised to read as follows:

§ 31.205-32 Procontract costs.

Precontract costs are those incurred before the effective date of the contract directly pursuant to the negotiation and in anticipation of the contract award when such incurrence is necessary to comply with the proposed contract delivery schedule. Such costs are allowable to the extent they would have been allowable if incurred after the date of the contract and are authorized in a clause substantially the same as the clause at 52.231-1, Precontract Costs (see 31.109).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.231-1 is added to read as follows:

§ 52.231-1 Precontract costs.

In accordance with 31.205-32, complete and insert in the contract a clause substantially the same as the following clause:

Precontract Costs (XXX 1991)

Precontract costs authorized under this contract are limited to those allowable under FAR 31.205-32, and incurred during the period from and including _____ to the effective date of this contract. These precontract costs shall not exceed $_____, which amount is included in the estimated costs, target costs, or price of the contract.

(End of Clause)

[FR Doc. 91-8142 Filed 4-5-91; 8:45 am]

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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**.

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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.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at **(202) 783-3238** from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

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[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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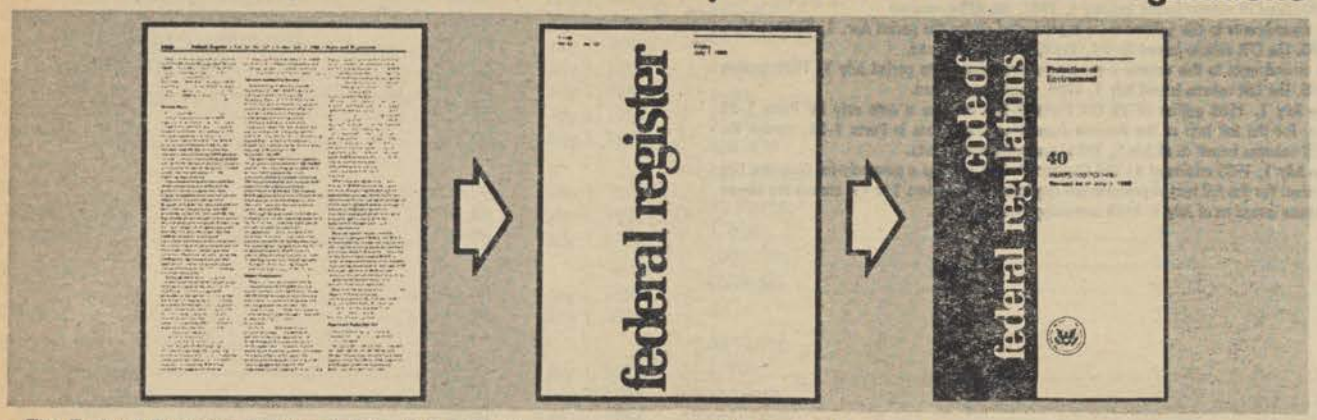

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