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Presidential Documents

Title 3—

The President

Memorandum of May 14, 1991

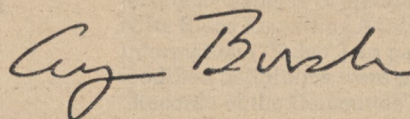
Waiver of Limitation With Respect to End Strength Level of U.S. Armed Forces in Japan for Fiscal Year 1991

Memorandum for the Secretary of Defense

Consistent with section 8105(d)(2) of the Department of Defense Appropriation Act, 1991 (Public Law 101-511; 104 Stat. 1856), I hereby waive the limitation in section 8105(b) which states that the end strength level for each fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year, and declare that it is in the national interest to do so.

You are authorized and directed to inform the Congress of this waiver and of the reasons for the waiver contained in the attached justification, and to publish this memorandum in the **Federal Register**.

THE WHITE HOUSE,
Washington, May 14, 1991.



Justification Pursuant to Section 8105(d)(2) of the Department of Defense Appropriations Act, 1991 (Public Law No. 101-511; 104 Stat 1856)

In January of this year the Department of Defense signed a new Host Nation Support Agreement with the Government of Japan in which that government agreed to pay all utility and Japanese labor costs incrementally over the next five years (worth \$1.7 billion). Because United States forward deployed forces stationed in Japan have regional missions in addition to the defense of Japan, we did not seek to have the Government of Japan offset all of the direct costs incurred by the United States related to the presence of all United States military personnel in Japan (excluding military personnel title costs).

[FR Doc. 91-12681

Filed 5-23-91; 3:59 pm]

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Rules and Regulations

Federal Register

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

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

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Update of Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation; correction.

SUMMARY: The Board is correcting an error in the final revisions to the official staff commentary to Regulation Z (Truth in Lending) which appeared in the Federal Register on April 4, 1991.

FOR FURTHER INFORMATION CONTACT:

Michael Bylsma at (202) 452-3667. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson at (202) 452-3544.

SUPPLEMENTARY INFORMATION: The revisions to the official staff commentary to Regulation Z, published in the Federal Register on April 4, 1991, contained certain errors that were corrected by the Federal Register in a notice published on May 14, 1991 (56 FR 22200). A final correction relating to changes in the terms of a home equity plan (changing the word "before" to "after"), which was not included by the Federal Register in the May 14 correction notice, appears below.

EFFECTIVE DATE: Effective April 1, 1991, but compliance optional until October 1, 1991.

1. The following correction is made to the revisions to the official staff commentary to Regulation Z (Supplement I to part 226) which appeared in the Federal Register on April 4, 1991 (56 FR 13751). On page 13755, in the third column, under comment 6, *Changes to home equity plans entered into on or after November*

7, 1989., the first sentence is corrected to read as follows:

* * * * *

6. *Changes to home equity plans entered into on or after November 7, 1989.* Section 226.9(c) applies when, by written agreement under § 226.5b(f)(3)(iii), a creditor changes the terms of a home equity plan—entered into on or after November 7, 1989—at or before its scheduled expiration, for example, by renewing a plan on terms different from those of the original plan. * * *

Board of Governors of the Federal Reserve System, May 21, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-12468 Filed 5-24-91; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 271

[Docket No. R-0725]

Federal Open Market Committee; Rules Regarding Availability of Information

AGENCY: Federal Open Market Committee, FRS.

ACTION: Final Rule.

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

EFFECTIVE DATE: July 1, 1991.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Committee last amended its Rules Regarding Availability of Information in 1977 (42 FR 13299, March 10, 1977). The

Freedom of Information Reform Act of 1986 (Pub. L. No. 99-570) ("FOI Reform Act") requires each federal agency to "promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests..." under the Freedom of Information Act ("FOIA"). These regulations must conform to guidelines issued by the Office of Management and Budget ("OMB"). (52 FR 10017, March 27, 1987.) The FOI Reform Act requires that the fees charged provide only for the recovery of the direct costs of search, review, and duplication. (5 U.S.C. 552(a)(4)(A)(iv)). In conformance with that Act, the Committee published a proposed fee schedule on February 13, 1991. (56 FR 5778)

In addition to conforming the Committee's fee procedures to the FOI Reform Act, the Committee proposed technical changes to update provisions of its Rules Regarding Availability of Information ("Rules"). In particular, modified definitions were proposed for "Records of the Committee" and "Search".

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

The Committee received only one comment on the proposed changes from The Reporters Committee for Freedom of the Press. This comment letter objected to only one aspect of the fee schedule, but had strong objections to the proposed definition of "search."

The objection to the fee schedule concerned the amount of the routine fee waiver. Under the FOI Reform Act (5 U.S.C. 552(a)(4)(A)(iv)(I)), no fee may be charged if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. Based on the calculations of these costs, this waiver was proposed to be \$5. The commenter suggested that the Committee follow other agencies in routinely waiving \$25 in fees. The Committee has not followed this

suggestion because it has calculated the costs of routine collection and processing as \$5. Therefore, the Committee believes this is the appropriate amount of the waiver.

The commenter also objected to the proposed definition of "search," particularly the proposed exclusions to the definition of "search." Commenter believes that the Committee has based these exclusions on a recent poll by the Justice Department regarding the applicability of the FOIA to electronic records. In actuality, the proposed definition is based upon, and is virtually identical to, the FOIA regulation of the Board of Governors of the Federal Reserve System ("Board"), because the Committee expects to use Board staff when responding to FOIA requests. Commenter also stated that these exclusions are ambiguous and may lead to staff not performing a reasonable search for responsive records. These proposed exclusions are based on existing case law regarding a "reasonable search", which governs in any event. Nevertheless, the Committee has determined to evaluate the matter further and will not make this proposed change at the present time. Accordingly, the Committee has determined to eliminate the proposed exclusions to the definition of "search" set forth at § 271.2(d)(2).

Commenter's final objection focused on § 271.5 which permits the Committee to defer availability of certain information. The Committee did not propose to amend the substance of the subsection, but only proposed a revision to the reasons for deferral. Commenter claims that failure to provide documents within the statutory deadline of 10 days constitutes denial. A similar contention was considered by the Supreme Court in *Merrill v. FOMC*, 443 U.S. 340 (1979). In that case, the Court upheld the Committee's longstanding position that the release of certain information of the Committee may be delayed.

Except for the elimination of § 271.2(d)(2), the regulation is adopted in final as it appeared in the proposed rulemaking.

Regulatory Flexibility Act Analysis

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

List of Subjects in 12 CFR Part 271

Federal Open Market Committee, Freedom of Information.

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

PART 271—RULES REGARDING AVAILABILITY OF INFORMATION

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

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

2. Section 271.1 is revised to read as follows:

§ 271.1 Authority.

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

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

§ 271.2 Definitions.

(b) *Records of the Committee.* (1) For purposes of requests submitted pursuant to the Freedom of Information Act (5 U.S.C. 552), the term "records of the Committee" includes rules, statements, opinions, orders, memoranda, letters, reports, accounts, and other written material, as well as magnetic tapes, computer printouts of information obtained through use of existing computer programs, charts, and other materials in machine readable form that constitute a part of the Committee's official files.

(c) *Board and Federal Reserve bank.* For the purposes of this part, "Board"

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

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

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

§ 271.4 Records available to the public on request.

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

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

§ 271.5 Deferment of availability of certain information.

(b) * * *

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

* * * * *

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

§ 271.6 Information not disclosed.

* * * * *

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

* * * * *

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

(1) Memorandums;

(2) Reports;

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

(4) Records of deliberations of the Committee and of discussions at meetings of the Committee, or staff or agents of the Committee.

* * * * *

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

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

7. Section 271.8 is added to read as follows:

§ 271.8 Fee schedule; waiver of fees.

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

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

(1) *Direct costs* mean those expenditures which the Committee actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing)

documents to respond to a request made under § 271.4 of this regulation. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus a factor to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

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

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

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

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

(d) *Educational, research, or media use.* (1) Only the fees in the Schedule of Fees for document duplication apply when records are not sought for commercial use and the requester is a representative of the news media, or of an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research. However, there is no charge for the first one hundred pages of duplication.

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

(3) *Noncommercial scientific institution* refers to an institution that is not operated on a "commercial" basis

(as that term is used in paragraph (c) of this section) and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

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

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

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

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

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

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

(ii) For purposes of computing the time period for responding to requests under

§ 271.4(c) of this regulation, the running of the time period will begin only after the Secretary receives the required payment.

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

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

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

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

- (i) A clear statement of the requester's interest in the requested documents;
- (ii) The use proposed for the documents and whether the requester will derive income or other benefit from such use;
- (iii) A statement of how the public will benefit from such use and from the Board's release of the requested documents; and
- (iv) If specialized use of the documents or information is contemplated, a statement of the requester's qualifications that are relevant to the specialized use.

(3) *Burden of proof.* In all cases the burden shall be on the requester to present evidence or information in support of a request for a waiver or reduction of fees.

(4) *Employee requests.* In connection with any request by an employee, former employee, or applicant for employment, for records for use in prosecuting a grievance or complaint of discrimination against the Committee, fees shall be waived where the total charges (including charges for information provided under the Privacy Act of 1974 (5 U.S.C. 552a) are \$50 or less; but the Secretary may waive fees in excess of that amount.

10. "Appendix A" is added to the end of part 271 to read as follows:

* * * * *

Appendix A to Part 271—Freedom of Information Fee Schedule

Duplication:

Photocopy, per standard page.....	\$ 0.10
Paper copies of microfiche, per frame.....	\$ 0.10
Duplicate microfiche, per microfiche.....	\$ 0.30

Search and Review:

Clerical/Technical, hourly rate.....	\$17.00
Professional/Supervisory, hourly rate.....	\$32.00
Manager/Senior Professional, hourly rate.....	\$53.00

Computer search and production:

Operator search time, hourly rate.....	\$25.00
Cassette tapes.....	\$ 5.00
PC computer output, per minute.....	\$ 0.10
Mainframe computer output.....	Actual cost

Special Services:

The Secretary of the Committee may agree to provide, and set fees to recover the costs of, special services not covered by the Freedom of Information Act, such as certifying records or information and sending records by special methods such as express mail. The Secretary may provide self-service photocopy machines and microfiche printers as a convenience to requesters.

Fee Waivers:

For qualifying educational and noncommercial scientific institution requesters and representatives of the news media, the Committee will not assess fees for review time, for the first 100 pages of reproduction, or, when the records sought are reasonably described, for search time. For other noncommercial use requests, no fees will be assessed for review time, for the first 100 pages of reproduction, or the first two hours of search time. For requesters qualifying for 100 free pages of reproduction, the fees for duplicate microfiche will be prorated to eliminate the charge for 100 frames.

The Committee will waive in full fees that total less than \$5.

The Secretary of the Committee or his or her designee will also waive or

reduce fees, upon proper request, if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. A fee reduction is available to employees, and applicants for employment who request records for use in prosecuting a grievance or complaint against the Committee.

By order of the Federal Open Market Committee, May 17, 1991.

Donald L. Kohn,

Secretary of the Committee.

[FR Doc. 91-12240 Filed 5-24-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-47-AD; Amendment 39-7013; AD 91-12-02]

Airworthiness Directives; Beech Models 1900 and 1900C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Beech Models 1900 and 1900C airplanes. This action requires initial and repetitive inspections of the engine trusses for cracks at the weld joints and the installation of reinforcement doublers on certain airplanes. Numerous reports of engine truss cracks at the weld joints have been received. The actions specified in this AD are intended to prevent engine truss failure that could result in complete loss of the engine from the airplane.

EFFECTIVE DATE: July 1, 1991.

ADDRESSES: Beech Service Bulletin (SB) No. 2196, dated September 1987, and Beech SB No. 2255, Revision II, dated December 1990, that are discussed in this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; Telephone (316) 676-7111. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Aerospace Engineer, Airframe Branch, Wichita Aircraft

Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to Beech Models 1900 and 1900C airplanes was published in the *Federal Register* on February 20, 1991 (56 FR 6814). The action proposed initial and repetitive visual inspections of the engine trusses for cracks at the weld joints and, if cracks are found, repair or replacement in accordance with Beech SB No. 2255, Revision II, dated December 1990, on certain Beech Models 1900 and 1900C airplanes. It also proposed the installation of a doubler in accordance with the instructions in Beech SB No. 2196, dated September 1987, on airplanes that have engine truss P/N 114-910025-1 or P/N 118-910025-1 installed. This requirement would not be mandatory if the doubler had been installed in accordance with Beech Letter No. 52-86-1645, dated December 15, 1986.

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

One commenter requested that the statement in the NOTE following paragraph (a)(2) of the AD be reworded to read that "the removal and in-turn magnetic particle inspection of the engine truss be performed anytime the engine is removed" as is written in Service Bulletin 2255. The FAA cannot enforce compliance with this action unless intervals are specified. The FAA's intent of the NOTE in the AD was to recommend this action. Therefore, the AD remains unchanged as a result of this comment.

Another commenter expressed concern that maintenance practices do not address dynamic balancing of the propeller on the engine. The commenter acknowledges that the propeller balancing will not eliminate engine mount cracking but should improve service life. Beech recommends that propeller balancing be performed on a periodic basis as is illustrated in the June 1989 issue of the Model 1900 Airline Communique. However, the FAA is only mandating inspections of the engine mount truss and the installation of a reinforcement doubler through this AD action. If the FAA finds that propeller balancing should be mandated, further AD action will be taken. The AD remains unchanged as a result of this comment.

The economic analysis paragraph that is discussed below, has been revised to increase the specified hourly labor rate from \$40 an hour (as was cited in the preamble of the notice of proposed rulemaking (NPRM)) to \$55 an hour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD action to account for various inflationary costs in the aviation industry.

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the change in the economic analysis labor rate and minor editorial corrections. These minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already necessary.

It is estimated that 225 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 19 hours per airplane to accomplish the required action, and that the average labor rate is approximately \$55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$235,125.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

AD 91-12-02 Beech: Amendment 39-7013; Docket No. 90-CE-47-AD. Applicability: Model 1900 airplanes (serial numbers (S/N) UA-2 and UA-3); and Model 1900C airplanes (S/N UB-1 through UB-74, S/N UC-1 through UC-156, and S/N UD-1 through UD-6), certificated in any category.

Compliance: Required initially upon the accumulation of 1,700 hours time-in-service (TIS), or within the next 100 hours TIS, whichever occurs later, after the effective date of this AD, unless already accomplished, and thereafter as indicated.

To detect cracks and prevent possible failure of the engine truss assembly, accomplish the following:

(a) If engine truss, part number (P/N) 118-910025-37 or P/N 118-910025-121 is installed, or if engine truss P/N 114-910025-1 or P/N 118-910025-1 that has a reinforcement doubler incorporated in accordance with the instructions in Beech Service Bulletin (SB) 2196, dated September 1987, or Beech Letter No. 52-86-1645, dated December 15, 1986, is installed, inspect the engine trusses for cracks at the weld joints in accordance with the instructions in Beech SB 2255, Revision II, dated December 1990.

(1) If no cracks are found, return the airplane to service and reinspect the engine trusses at intervals of 600 hours TIS thereafter.

(2) If cracks are found, prior to further flight, repair the cracked engine truss in accordance with the instructions in Beech SB 2255, Revision II, dated December 1990, or replace the cracked engine truss with a new truss, P/N 118-910025-37 or P/N 118-910025-121, in accordance with the instructions in Beech SB 2255, Revision II, dated December 1990, and reinspect the engine trusses at intervals of 600 hours TIS thereafter.

Note: Any time the engine is removed, it is recommended that the truss be removed and a magnetic particle inspection be performed in accordance with Beech SB 2255, Revision II, dated December 1990.

(b) If engine truss, P/N 114-910025-1 or P/N 118-910025-1 that does not have a doubler incorporated in accordance with the instructions in Beech Service Bulletin 2196, dated September 1987, or Beech Letter No. 52-86-1645, dated December 15, 1986, is installed, inspect the engine trusses for cracks at the weld joints in accordance with the instructions in Beech SB 2255, Revision II, dated December 1990.

(1) If no cracks are found, install a reinforcement doubler in accordance with the instructions in Beech SB 2196, dated September 1987, or Beech Letter No. 52-86-1645, dated December 15, 1986, and reinspect

the reinforced engine trusses at intervals of 600 hours TIS thereafter.

(2) If cracks are found, prior to further flight, repair the cracked engine truss in accordance with the instructions in Beech SB 2255, Revision II, dated December 1990, and install a reinforcement doubler in accordance with the instructions in Beech SB 2196, dated September 1987, or Beech Letter No. 52-86-1645, dated December 15, 1986; or replace the cracked engine truss with a new truss, P/N 118-910025-37 or P/N 118-910025-121, in accordance with the instructions in Beech SB 2255, Revision II, dated December 1990, and reinspect the engine trusses at intervals of 600 hours TIS thereafter.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; Telephone (316) 676-7111; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on July 1, 1991.

Issued in Kansas City, Missouri, on May 15, 1991.

Henry A. Armstrong,
Acting Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 91-12474 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-CE-39-AD; Amdt. 39-6992]

Airworthiness Directives; Partenavia Costruzioni Aeronautiche, S.p.A., Models P68C-TC, P68-OTC, P68C, and P68 Observer Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Partenavia Costruzioni Aeronautiche, S.p.A., Models P68C-TC, P68-OTC, P68C, and P68 Observer airplanes. This action requires the

replacement of the engine fuel lines and Janitrol fuel lines. Corrosion in the engine and Janitrol fuel lines of two of the affected airplanes resulted in fuel leakage and the detection of fuel fumes in the airplane cabin. The actions specified by this AD are intended to prevent ignition and possible explosion of the airplane.

DATES: Effective June 14, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 14, 1991. Comments for inclusion in the Rules Docket must be received on or before July 15, 1991.

ADDRESSES: Partenavia Service Instruction No. 39 or Partenavia Service Instruction No. 40, both dated February 14, 1991, that are discussed in this AD may be obtained from Partenavia Costruzioni Aeronautiche, S.p.A., Via G. Pascoli N. 7, 80026 Casoria (NA), Italy. This information may also be examined at the Rules Docket at the address below. Send comments on this AD in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 91-CE-39-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Carl F. Mittag, Project Manager, Brussels Aircraft Certification Office, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 322.513.38.30 extension 2716; or Mr. Michael Dahl, Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 601 E. 12th Street, Kansas City Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION: The Registro Aeronautico Italiano (RAI), which is the airworthiness authority for Italy, recently notified the FAA that an unsafe condition may exist on Partenavia Costruzioni Aeronautiche, S.p.A. Models P68C-TC, P68-OTC, P68C, and P68 Observer airplanes. The RAI advises that corrosion in the engine and Janitrol fuel lines behind the engine firewall has resulted in fuel leakage and detection of fuel fumes in the airplane cabin. Fuel leakage into the airplane cabin could result in ignition and possible explosion of the airplane. The manufacturer (Partenavia Costruzioni Aeronautiche, S.p.A.) has issued Service Bulletin No. 61, Revision 2, dated February 19, 1991, and Service Instructions Nos. 39 and 40, both dated February 14, 1991, which specify inspection and replacement procedures for the engine and Janitrol fuel lines on the affected airplanes. The RAI has classified the service information as

mandatory to assure the continued airworthiness of these airplanes. Pursuant to a bilateral airworthiness agreement, the RAI has kept the FAA fully informed of the above situation.

The FAA has examined the findings of the RAI, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States. Rather than rely on the inspections to detect the corrosion, the FAA has determined that the fuel lines should be replaced by the installation of the applicable service kit and the Janitrol fuel lines should be replaced with an improved part.

Since this condition could exist or develop in other Partenavia Costruzioni Aeronautiche, S.p.A., Models P68C-TC, P68-OTC, P68C, and P68 Observer airplanes of the same type design, this AD requires the replacement of the engine and Janitrol fuel lines in accordance with the instructions in Partenavia Service Instruction No. 39 or Partenavia Service Instruction No. 40, both dated February 14, 1991, whichever is applicable. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered and this rule may be amended in light of the comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Dockets at the address given above. A report that summarizes each

FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Partenavia Costruzioni Aeronautiche:
Amendment 39-6992; Docket No. 91-CE-39-AD.

Applicability: Models P68C-TC airplanes (all serial numbers (S/N)), P68-OTC airplanes (S/N 344-01-OTC and 340-02-OTC), and P68C and P68 Observer airplanes (S/N 268 to 381), certificated in any category.

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

To prevent fuel leakage into the airplane cabin that could result in ignition and explosion of the airplane, accomplish the following:

(a) For Models P68C-TC and P68-OTC, remove the fuel and Janitrol system lines in accordance with the instructions in Partenavia Service Instruction No. 39, dated February 14, 1991.

(1) Install the applicable service kit in accordance with the instructions in Partenavia Instruction No. 39.

(2) Replace the light alloy line of the Janitrol system (part number (P/N) 7.6131-2) with P/N 7.6131C-2 on the applicable Model P68C-TC airplanes in accordance with the instructions in Partenavia Service Instruction No. 39.

(b) For Models P68C and P68 Observer, remove the fuel and Janitrol system lines in accordance with the instructions in Partenavia Service Instruction No. 40, dated February 14, 1991.

(1) Install the applicable service kit in accordance with the instructions in Partenavia Instruction No. 40.

(2) Replace the light alloy line of the Janitrol system (part number (P/N) 7.6131-2) with P/N 7.6131C-2 on the applicable Model P68C airplanes in accordance with the instructions in Partenavia Service Instruction No. 40.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

(e) The replacements and modifications required by this AD shall be done in accordance with Partenavia Service Instruction No. 39 or Partenavia Service Instruction No. 40, both dated February 14, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Partenavia Costruzioni Aeronautiche, S.p.A., Via G. Pascoli N. 7, 80026 Casoria (NA), Italy. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

This amendment becomes effective on June 14, 1991.

Issued in Kansas City, Missouri, on April 30, 1991.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-12487 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960-AC90

Federal Old-Age, Survivors, and Disability Insurance; Elimination of Dependency Requirements for Certain Adopted Children

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: The rule reflects section 10301 of Public Law (Pub. L.) 101-239, the Omnibus Budget Reconciliation Act of 1989, enacted on December 19, 1989. Section 10301 eliminated the dependency requirements for a child adopted by an individual entitled to retirement or disability insurance benefits after the individual became entitled to such benefits if the child was legally adopted by the individual in an adoption issued by a court of competent jurisdiction within the United States and the child was under age 18 when the adoption proceedings were started. Section 10301 also provided that if the child was age 18 or older when the adoption proceedings were started, the child must have been living with or receiving one-half support from the entitled individual for the year prior to adoption. The provisions of section 10301 are applicable to child's insurance benefits payable for months after December 1989, but only on the basis of applications filed on or after January 1, 1990.

DATES: This rule is effective on July 29, 1991.

FOR FURTHER INFORMATION CONTACT: Cassandra Bond, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-1794.

SUPPLEMENTARY INFORMATION: Current regulations at 20 CFR 404.362(a) and (b) state that if a child is legally adopted by the worker after the worker's entitlement to retirement or disability insurance benefits, and the child is not the worker's natural child or stepchild,

he or she is considered dependent on the worker only if the child: (1) Was adopted under an order of a court of competent jurisdiction within the United States; (2) began living with the worker before age 18; and (3) was living with and receiving at least one-half support from the worker for the year before the worker became entitled to benefits or became disabled (or, if the child is the worker's grandchild or stepgrandchild, for the year before the child applied for benefits).

The rule amends § 404.362 of our regulations to reflect the changes made by section 10301 of Public Law 101-239 which provides that a child adopted after the worker's entitlement began is considered dependent if the adoption was issued by a court of competent jurisdiction within the United States and either (1) the adoption proceedings began before the child attained age 18, or (2) the child was living with or receiving one-half support from the worker for the year prior to adoption.

Justification for Dispensing with Rulemaking Procedures

We are publishing these amendments without prior notice and public procedure thereon. The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of regulations. The APA provides exceptions to its notice and comment requirements when an agency finds there is good cause for dispensing with such procedures. Section 553(b)(B) exempts a rule from the notice and comment rulemaking procedures "when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." We find good cause to dispense with notice of proposed rulemaking in the case of this rule because we find that such procedure is "unnecessary" since we are only reflecting the statutory provisions in the regulations and these provisions do not involve any exercise of discretion.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the issuance of this regulation is not expected to result in significant costs. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

This regulation imposes no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because this rule will affect only individuals. Therefore a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security Disability Insurance; 13.803, Social Security Retirement Insurance; and 13.805, Social Security Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-age, survivors and disability insurance.

Dated: November 7, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: March 27, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 404 of title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950—)

1. The authority citation for subpart D of part 404 continues to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 228(a)–(e), and 1102 of the Social Security Act; 42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 428(a)–(e), and 1302.

2. In § 404.362, paragraph (b)(1) is revised; paragraph (b)(2) is removed; and paragraph (b)(3) is redesignated paragraph (b)(2) to read as follows:

§ 404.362 When a legally adopted child is dependent.

* * * * *

(b) *Adoption by the insured after he or she became entitled to benefits.* (1) *General.* If you are legally adopted by the insured after he or she became entitled to benefits and you are not the insured's natural child or stepchild, you are considered dependent on the insured during his or her lifetime only if—

(i) You had not attained age 18 when adoption proceedings were started, and your adoption was issued by a court of competent jurisdiction within the United States; or

(ii) You had attained age 18 before adoption proceedings were started; your adoption was issued by a court of competent jurisdiction within the United States; and you were living with or receiving at least one-half of your support from the insured for the year immediately preceding the month in which your adoption was issued.

* * * * *

[FR Doc. 91-12443 Filed 5-24-91; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8337]

RIN 1545-AM08

Allocation and Apportionment of Deduction for State Income Taxes; Correcting Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (T.D. 8337), which were published Tuesday, March 12, 1991 (56 FR 10365). The final regulations relate to the allocation and apportionment of deductions for state income taxes in computing taxable income from sources inside and outside the United States.

EFFECTIVE DATE: These regulations are effective for taxable years ending after March 12, 1991.

FOR FURTHER INFORMATION CONTACT: David F. Chan, (202) 566-6645 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The regulations were issued under the authority contained in section 7805 (26 U.S.C. 7805) of the Internal Revenue Code of 1986.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR 1.861-1 Through 1.864-12

Income taxes, United States investments abroad.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 continues to read in part:

Authority: 26 U.S.C. 7805 * * *

§ 1.861-8 [Amended]

Par. 2. On page 10371, column one, in § 1.861-8, paragraph (e)(6)(ii)(D)(2)(i), in the heading on line 3, the phrase "portfolio dividends." is corrected to read "portfolio dividends and other income."

Par 3. On page 10371, column one, in § 1.861-8, paragraph (e)(6)(ii)(D)(2)(i), line 27, the following sentence is added after the phrase "28 of paragraph (g).":

"If a state income tax is determined based upon formula apportionment of the total taxable income attributable to the taxpayer's unitary business, the taxpayer must also apply the methodology illustrated in paragraph (ii) (C) through (G) of Example 29 of paragraph (g) of this section to make specific allocations of appropriate portions of the deduction for state income tax on the basis of income that, under separate accounting, would have been attributed to other members of the unitary group."

Par. 4. On page 10371, column one, in § 1.861-8, paragraph (e)(6)(ii)(D)(2)(i), line 30, the phrase "portfolio dividends to which a specific" is corrected to read "portfolio dividends and other income to which a specific".

Par. 5. On page 10371, column two, in § 1.861-8, paragraph (e)(6)(ii)(D)(2)(iii), line 5, the phrase "foreign source portfolio dividends under" is corrected to read "foreign source portfolio dividends and other income under".

Par. 6. On page 10371, column two, in § 1.861-8, paragraph (e)(6)(ii)(D)(3)(i), in the heading on line 3, the phrase "portfolio dividends." is corrected to read "portfolio dividends and other income."

Par. 7. On page 10371, column three, in § 1.861-8, paragraph (e)(6)(ii)(D)(3)(iii), line 5 from the top of the column, the phrase "foreign source portfolio dividends under" is corrected to read "foreign source portfolio dividends and other income under".

Par. 8. On page 10376, column three, in § 1.861-8, paragraph (g), General examples, paragraph (i) of Example 33, line 4, the phrase "income tax on corporations" is corrected to read "income tax on corporations, and P's non-unitary state F taxable income equals \$462,500."

Par. 9. On page 10376, column three, in § 1.861-8, paragraph (g), General examples, paragraph (ii)(A) of Example

33, last line of that paragraph, after the phrase "\$37,500 of foreign source portfolio dividends)," add the following sentence:

"Because the remaining amount of state F taxable income (\$462,500) equals P's non-unitary state F taxable income, no further specific allocation of state tax is required."

Par. 10. On page 10377, column two in § 1.861-8 paragraph (g), General examples, paragraph (iii)(D) of Example 33, in the second paragraph of text, last line of that paragraph, after the phrase "U.S. source federal taxable income", add the following language, "and reduced by the amount of foreign source portfolio dividends to which the tax has been specifically allocated".

Par. 11. On page 10377, column two, in § 1.861-8, paragraph (g), General examples, paragraph (iii)(D) of Example 33, the remainder of the example is corrected to read as follows:

"Portion of remainder apportioned to foreign source general limitation income (statutory grouping):	\$21,413.93	X	
(\$212,500/\$662,500).....			\$6,868.62
Remaining state income tax deduction to be apportioned to income from sources within the United States (residual grouping):	\$21,413.93	X	
(\$450,000/\$662,500).....			\$14,545.31

Of P's total deduction of \$56,000 for state income tax, the portion allocated and apportioned to foreign source general limitation income equals \$10,618.62—the sum of \$6,868.62 apportioned under Step Four and the \$3,750.00 specifically allocated to foreign source portfolio dividend income under Step One. The portion of the deduction allocated and apportioned to U.S. source income equals \$45,381.38—the sum of the \$30,836.07 and the \$14,545.31 apportioned under Step Four."

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91-12314 Filed 5-24-91; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 601

RIN 1545-AP25

Statement of Procedural Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of the statement of procedural rules.

SUMMARY: This document contains amendments to the Conference and

Practice Requirements of the Statement of Procedural Rules. The Statement of Procedural Rules sets forth the procedural rules of the Internal Revenue Service for all taxes it administers as well as certain rules that apply to the Bureau of Alcohol, Tobacco, and Firearms. The Conference and Practice Requirements set forth the rules concerning powers of attorney required for representation of taxpayers before the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms. The amendments in this document concern only those provisions of the Conference and Practice Requirements which relate to the Internal Revenue Service. This action is necessary to address issues not specifically contained in the old rules, such as durable powers of attorney and powers of attorney received by the Internal Revenue Service by facsimile transmission. The rules also have been restated in order to clarify and simplify procedures concerning power of attorney requirements.

EFFECTIVE DATE: May 28, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. D. LaMar Whitman or Mr. Patrick W. McDonough of the Office of Director of Practice, Internal Revenue Service, at (202) 535-6787 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document is a revision and restatement of the Conference and Practice Requirements contained in the Statement of Procedural Rules (26 CFR part 601). The Conference and Practice Requirements contain the procedural rules for powers of attorney required for representation of taxpayers before the Internal Revenue Service. A notice was published in the *Federal Register* on April 19, 1989 (54 FR 15779), in which written comments were solicited with respect to the Conference and Practice Requirements, powers of attorney, and tax information authorizations. As a result of such comments, the rules have been restated in order to clarify and simplify the requirements. In doing so, the following matters have been either revised or added as a new provision.

a. *Form 2848-D, "Tax Information Authorization and Declaration of Representative,"* to be replaced by form 8821, "Tax Information Authorization." Concurrent with the issuance of these new rules, form 2848-D, "Tax Information Authorization and Declaration of Representative" will become obsolete and will be replaced by (new) form 8821, "Tax Information Authorization." Form 2848-D has been

eliminated in order to end confusion concerning the differences between form 2848, "Power of Attorney and Declaration of Representative," and form 2848-D. The new rules contemplate the use of form 8821 by any person authorized by the taxpayer to receive and/or inspect confidential tax return information of such taxpayer. However, unlike form 2848-D, form 8821 is only a disclosure authorization and cannot be used by a taxpayer to appoint a representative. Instead, form 2848 is the appropriate form to be used by a taxpayer who wishes to appoint a representative.

Under the old rules, a taxpayer who wished to appoint an unenrolled return preparer for representation before the Examination Division of the Internal Revenue Service was required to file form 2848-D. Because this form has been eliminated, the revised form 2848 now may be used to name an unenrolled return preparer for such representation. However, the rights and privileges of an unenrolled return preparer have not been changed (i.e., the scope of authority with respect to representation by an unenrolled return preparer remains subject to the limitations imposed by § 10.7(a)(7) of Treasury Department Circular No. 230 (subtitle A of 31 CFR part 10)).

b. Power of attorney documents other than form 2848. In general, the new rules are intended to ease the perceived restriction on acceptance of power of attorney documents other than Form 2848 ("non-IRS powers of attorney"), such as general, limited, and durable powers of attorney. The old rules required, among other things, that a power of attorney list: (1) The type of tax involved, (2) the Federal tax form number, (3) the year(s) or period(s) involved, and (4) for estate tax matters, the date of death of the decedent. Many non-IRS powers of attorney do not routinely include such information. Therefore, those powers of attorney generally were not accepted by the Internal Revenue Service even though the authorization was complete and valid under the law of the local jurisdiction. The Internal Revenue Service recognizes the possible hardship caused by requiring a taxpayer to execute a second power of attorney conforming to the requirements of the Internal Revenue Service. While the information previously required continues to be necessary, the new rules provide that the attorney-in-fact (named on the non-IRS power of attorney) will be permitted to execute a form 2848 on behalf of the taxpayer if (i) the original power of attorney contemplates the

authority on the part of the attorney-in-fact to handle Federal tax matters (e.g., the power of attorney includes the authority to handle tax matters or the authority to perform any and all acts); and (ii) the attorney-in-fact attaches a statement to the form 2848 that the original power of attorney is valid.

c. Centralized Authorization File. Information regarding the authority of a person appointed under either a power of attorney (form 2848) or a tax information authorization (form 2848-D) (which will be replaced by form 8821) is routinely recorded onto the Centralized Authorization File ("CAF"). Regarding such information onto the CAF system facilitates automatic routing of tax notices and correspondence to a representative appointed under a power of attorney or to a person authorized under a tax information authorization. However, recognition of the validity of a power of attorney or tax information authorization is not contingent on the entry of such information onto the system.

1. Specific tax periods required. In order to process a power of attorney or tax information authorization onto the CAF system, the tax matter identified thereon must relate to a specific tax period (e.g., form 1040 for the 1988 calendar year or form 941 for the quarters ended June 30, 1987, and September 30, 1987). If a tax period is not provided, it is systemically not possible to enter a power of attorney or tax information authorization onto the CAF system. This limitation also means that certain tax matters which do not relate to a specific tax period (e.g., matters concerning the 100% penalty for failure to pay over withholding taxes imposed by section 6672 of the Internal Revenue Code, applications for an employer identification number, and requests for a private letter ruling request pertaining to a proposed transaction) cannot be recorded onto the CAF system. This limitation has been present since the development of the CAF system and is not changed by the new rules. It is described in the new rules for information purposes.

2. Limitation concerning future periods to be recorded onto the CAF system. CAF system data analysis indicates an increasing number of powers of attorney being filed for periods ending far into the future (e.g., for periods through 2025). This has begun to cause an undue burden on CAF database management. The new rules address this burden by providing that only those matters relating to tax periods ending not more than three years after receipt (by the Internal

Revenue Service) of the power of attorney will be recorded onto the CAF system. This limitation does not affect the validity of a power of attorney covering any future period. A copy of such document may be refiled for processing at a future date provided the taxpayer and practitioner wish to continue the representation during the later periods.

3. Non-IRS power of attorney to be attached to "transmittal" form 2848. The new rules request that a form 2848 completed by the attorney-in-fact named under the non-IRS power of attorney accompany the non-IRS power of attorney. The form 2848 is "transmittal" in nature; it is not the operative power of attorney document. However, it will contain information which is necessary for processing the power of attorney. Failure by the attorney-in-fact to furnish a transmittal form 2848 is not determinative of the current or future validity of the non-IRS power of attorney. However, its use is encouraged, for without this form, the non-IRS power of attorney will not be recorded onto the CAF file.

4. Assignment of CAF numbers. When a power of attorney or tax information authorization is recorded onto the CAF system, a CAF number is assigned to the representative appointed under the power of attorney or the appointee authorized under the tax information authorization. A CAF number is unique to the representative or appointee. It does not identify either the taxpayer or the tax matter. The CAF number issued should be used by the representative (in the case of a power of attorney) or the appointee (in the case of a tax information authorization) on all powers of attorney or tax information authorizations filed in the future. The new rules are intended to make it clear that issuance of a CAF number does not indicate that a person is either recognized or authorized to practice before the Internal Revenue Service; it is merely a means to facilitate the processing of a power of attorney or tax information authorization.

d. Automatic revocation of power of attorney. Under the old rules, a newly filed power of attorney automatically revoked either a previously filed power of attorney or tax information authorization relating to the same tax matter. The new rules provide that a newly filed power of attorney will revoke a previously filed power of attorney but not a previously filed tax information authorization. Similarly, a newly filed tax information authorization will revoke a previously filed tax information authorization

concerning the same tax matter but will not revoke a power of attorney concerning such matter. This is considered appropriate because the two documents are separate and distinct. However, the new rules continue to provide that the automatic revocation procedures can be avoided if instructions for non-revocation are included on the newly filed document.

e. Substitution or delegation of recognized representative. The old rules provided that even without a specific grant of authority from a taxpayer, a representative appointed under a form 2848 or general power of attorney (authorizing the representative to perform any and all acts the taxpayer can perform with respect to specified tax matters) was authorized to make a substitution of representative or to delegate authority in a matter to another representative. The new rules continue to permit the appointed representative to substitute a representative or to delegate authority to a new representative. However, such act must be authorized by the taxpayer on the power of attorney. It is believed desirable that the taxpayer not unwittingly grant a representative authority to substitute or to delegate.

f. Situations in which a power of attorney is required. Although the old rules provided that a power of attorney was required to be filed by a representative to perform certain acts, they did not clearly state that a power of attorney is required in order for an individual to represent a taxpayer before the Internal Revenue Service. The new rules clarify this issue by requiring a power of attorney for the purpose of representation before the Internal Revenue Service irrespective of a specific act. The new rules also now contain specific permission for a representative to sign a tax return on behalf of a taxpayer. This permission is valid only if the substitute signature is allowed under the Internal Revenue Code (e.g., the authority to sign an income tax returns is governed by the provisions of § 1.6012-1(a)(5) of the Income Tax Regulations) and is expressly authorized by the taxpayer in the power of attorney.

g. Facsimile copies. Although the old rules provided that a copy of a power of attorney would be accepted by the Internal Revenue Service, they did not address the acceptability of a power of attorney submitted via facsimile transmission (FAX). The new rules specifically authorize the Internal Revenue Service to accept a power of attorney submitted by facsimile transmission.

h. Situations in which a taxpayer may be contacted directly. The new rules provide that the Internal Revenue Service is permitted to contact a taxpayer directly in situations in which the recognized representative of the taxpayer unreasonably delays or hinders an examination, collection or investigation by failing to furnish, after repeated request, nonprivileged information necessary to the examination, collection or investigation. This provision conforms the new rules to section 7521(c) of the Internal Revenue Code.

i. Notarization of signature of taxpayer not required. Under the old rules, the signature of the taxpayer was required to be acknowledged before a notary public or witnessed by two disinterested individuals if the representative appointed by the taxpayer was a person other than an attorney, certified public accountant, enrolled agent, or enrolled actuary. Those rules also required a notarial seal to be affixed under certain circumstances. Those requirements have been eliminated by the new rules.

j. Fiduciaries. A fiduciary (e.g., trustee, executor, administrator or receiver) stands in the position of a taxpayer and acts as the taxpayer. Therefore, a fiduciary does not act as a representative in the traditional sense of the term and need not file a power of attorney (as a representative). However, the fiduciary should file form 56, "Notice Concerning Fiduciary Relationship," to notify the Internal Revenue Service of the existence of the fiduciary relationship. If a fiduciary wishes to authorize an individual to represent or perform certain acts on behalf of the entity, a power of attorney signed by the fiduciary acting in the position of the taxpayer must be filed.

Special Analyses

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for procedural rules. Accordingly, the proposed amendments to the Statement of Procedural Rules do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting information

The principal authors of this amendment of the statement of procedural rules are Mr. D. LaMar Whitman and Mr. Patrick W. McDonough of the Office of Director of

Practice, Internal Revenue Service. However, personnel from other Offices of the Internal Revenue Service participated in developing the rules both on matters of substance and style.

List of Subjects in 26 CFR Part 601

Administrative practice and procedure, Aged, Alcohol and alcoholic beverages, Arms and munitions, Cigars and cigarettes, Claims, Freedom of information, Petroleum, Reporting and recordkeeping requirements, Taxes.

Amendments to Statement of Procedural Rules

Accordingly, 26 CFR part 601 is amended as follows:

PART 601—[AMENDED]

Paragraph 1. The authority citation for part 601 continues to read as follows:

Authority: 68A Stat. 917, 26 U.S.C. 7805; 5 U.S.C. 301.

Par. 2. §§ 601.501 through 601.509 of Conference and Practice Requirements are revised to read as follows:

§ 601.501 Scope of rules; definitions.

(a) *Scope of rules.* The rules prescribed in this subpart concern, among other things, the representation of taxpayers before the Internal Revenue Service under the authority of a power of attorney. These rules apply to all offices of the Internal Revenue Service in all matters under the jurisdiction of the Internal Revenue Service and apply to practice before the Internal Revenue Service (as defined in 31 CFR 10.2(a) and 10.7(a)(7)). For special provisions relating to alcohol, tobacco, and firearms activities, see §§ 601.521 through 601.527. These rules detail the means by which a recognized representative is authorized to act on behalf of a taxpayer. Such authority must be evidenced by a power of attorney and declaration of representative filed with the appropriate office of the Internal Revenue Service. In general, a power of attorney must contain certain information concerning the taxpayer, the recognized representative, and the specific tax matter(s) for which the recognized representative is authorized to act. (See § 601.503(a).) A "declaration of representative" is a written statement made by a recognized representative that he/she is currently eligible to practice before the Internal Revenue Service and is authorized to represent the particular party on whose behalf he/she acts. (See § 601.502(b).)

(b) *Definitions*—(1). *Attorney-in-fact.* An agent authorized by a principal

under a power of attorney to perform certain specified act(s) or kinds of act(s) on behalf of the principal.

(2) *Centralized Authorization File (CAF) system.* An automated file containing information regarding the authority of a person appointed under a power of attorney or designated under a tax information authorization.

(3) *Circular No. 230.* Treasury Department Circular No. 230 codified, at 31 CFR part 10, which sets forth the regulations governing practice before the Internal Revenue Service.

(4) *Declaration of representative.* (See § 601.502(b).)

(5) *Delegation of authority.* An act performed by a recognized representative whereby authority given under a power of attorney is delegated to another recognized representative. After a delegation is made, both the original recognized representative and the recognized representative to whom a delegation is made will be recognized to represent the taxpayer. (See § 601.505(b)(2).)

(6) *Form 2848, "Power of Attorney and Declaration of Representative."* The Internal Revenue Service power of attorney form which may be used by a taxpayer who wishes to appoint an individual to represent him/her before the Internal Revenue Service. (See § 601.503(b)(1).)

(7) *Matter.* The application of each tax imposed by the Internal Revenue Code and the regulations thereunder for each taxable period constitutes a (separate) matter.

(8) *Office of the Internal Revenue Service.* The Office of each district director, the office of each service center, the office of each compliance center, the office of each regional commissioner, and the National Office constitute separate offices of the Internal Revenue Service.

(9) *Power of attorney.* A document signed by the taxpayer, as principal, by which an individual is appointed as attorney-in-fact to perform certain specified act(s) or kinds of act(s) on behalf of the principal. Specific types of powers of attorney include the following—

(i) *General power of attorney.* The attorney-in-fact is authorized to perform any or all acts the taxpayer can perform.

(ii) *Durable power of attorney.* A power of attorney which specifies that the appointment of the attorney-in-fact will not end due to either the passage of time (i.e., the authority conveyed will continue until the death of the taxpayer) or the incompetency of the principal (e.g., the principal becomes unable or is adjudged incompetent to perform his/her business affairs).

(iii) *Limited power of attorney.* A power of attorney which is limited in any facet (i.e., a power of attorney authorizing the attorney-in-fact to perform only certain specified acts as contrasted to a general power of attorney authorizing the representative to perform any and all acts the taxpayer can perform).

(10) *Practice before the Internal Revenue Service.* Practice before the Internal Revenue Service encompasses all matters connected with presentation to the Internal Revenue Service or any of its personnel relating to a taxpayer's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include the preparation and filing of necessary documents, correspondence with and communications to the Internal Revenue Service, and the representation of a taxpayer at conferences, hearings, and meetings. (See 31 CFR 10.2(a) and 10.7(a)(7).)

(11) *Principal.* A person (i.e., taxpayer) who appoints an attorney-in-fact under a power of attorney.

(12) *Recognized representative.* An individual who is recognized to practice before the Internal Revenue Service under the provisions of § 601.502.

(13) *Representation.* Acts performed on behalf of a taxpayer by a representative in practice before the Internal Revenue Service. (See § 601.501(b)(10).) Representation does not include the furnishing of information at the request of the Internal Revenue Service or any of its officers or employees. (See 31 CFR 10.7(c).)

(14) *Substitution of representative.* An act performed by an attorney-in-fact whereby authority given under a power of attorney is transferred to another recognized representative. After a substitution is made, only the newly recognized representative will be considered the taxpayer's representative. (See § 601.505(b)(2).)

(15) *Tax information authorization.* A document signed by the taxpayer authorizing any individual or entity (e.g., corporation, partnership, trust or organization) designated by the taxpayer to receive and/or inspect confidential tax information in a specified matter. (See section 6103 of the Internal Revenue Code and the regulations thereunder.)

(c) *Conferences.*—(1) *Scheduling.* The Internal Revenue Service encourages the discussion of any Federal tax matter affecting a taxpayer. Conferences may be offered only to taxpayers and/or their recognized representative(s) acting under a valid power of attorney. As a general rule, such conferences will not

be held without previous arrangement. However, if a compelling reason is shown by the taxpayer that an immediate conference should be held, the Internal Revenue Service official(s) responsible for the matter has the discretion to make an exception to the general rule.

(2) *Submission of information.* Every written protest, brief, or other statement the taxpayer or recognized representative wishes to be considered at any conference should be submitted to or filed with the appropriate Internal Revenue Service official(s) at least five business days before the date of the conference. If the taxpayer or the representative is unable to meet this requirement, arrangement should be made with the appropriate Internal Revenue Service official for a postponement of the conference to a date mutually agreeable to the parties. The taxpayer or the representative remains free to submit additional or supporting facts or evidence within a reasonable time after the conference.

§ 601.502 Recognized representative.

A recognized representative is an individual who is

(i) Appointed as an attorney-in-fact under a power of attorney, and a

(ii) Member of one of the categories described in § 601.502(a) and who files a declaration of representative, as described in § 601.502(b).

(a) *Categories.*—(1) *Attorney.* Any individual who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia;

(2) *Certified public accountant.* Any individual who is duly qualified to practice as a certified public accountant in any state, possession, territory, commonwealth, or the District of Columbia;

(3) *Enrolled agent.* Any individual who is enrolled to practice before the Internal Revenue Service and is in active status pursuant to the requirements of Circular No. 230;

(4) *Enrolled actuary.* Any individual who is enrolled as an actuary by and is in active status with the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. 1242.

(5) *Other individuals.*—(i) *Temporary recognition.* Any individual who is granted temporary recognition as an enrolled agent by the Director of Practice (31 CFR 10.5(c)).

(ii) *Practice based on a relationship or special status with a taxpayer.* Any individual authorized to represent a taxpayer with whom/which a special

relationship exists (31 CFR 10.7(a) (1)–(6)). (For example, an individual may represent another individual who is his/her regular full-time employer or a member of his/her immediate family; an individual who is a bona fide officer or regular full-time employee of a corporation or certain other organizations may represent that entity.)

(iii) *Unenrolled return preparer.* Any individual who signs a return as having prepared it for a taxpayer, or who prepared a return with respect to which the instructions or regulations do not require that the return be signed by the preparer. The acts which an unenrolled return preparer may perform are limited to representation of a taxpayer before revenue agents and examining officers of the Examination Division in the offices of District Director with respect to the tax liability of the taxpayer for the taxable year or period covered by a return prepared by the unenrolled return preparer (31 CFR 10.7(a)(7)).

(iv) *Special appearance.* Any individual who, upon written application, is authorized by the Director of Practice to represent a taxpayer in a particular matter (31 CFR 10.7(b)).

(b) *Declaration of representative.* A recognized representative must attach to the power of attorney a written declaration (e.g., part II of form 2848) stating the following—

(1) I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;

(2) I am aware of the regulations contained in Treasury Department Circular No. 230 (31 CFR part 10), concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others;

(3) I am authorized to represent the taxpayer(s) identified in the power of attorney; and

(4) I am an individual described in § 601.502(a).

If an individual is unable to make such declaration, he/she may not engage in representation of a taxpayer before the Internal Revenue Service or perform the acts described in §§ 601.504(a) (2) through (6).

§ 601.503 Requirements of power of attorney, signatures, fiduciaries and Commissioner's authority to substitute other requirements.

(a) *Requirements.* A power of attorney must contain the following information—

(1) Name and mailing address of the taxpayer;

(2) Identification number of the taxpayer (i.e., social security number and/or employer identification number);

(3) Employee plan number (if applicable);

(4) Name and mailing address of the recognized representative(s);

(5) Description of the matter(s) for which representation is authorized which, if applicable, must include—

(i) The type of tax involved;

(ii) The Federal tax form number;

(iii) The specific year(s)/period(s) involved; and

(iv) In estate matters, decedent's date of death; and

(6) A clear expression of the taxpayer's intention concerning the scope of authority granted to the recognized representative(s).

(b) *Acceptable power of attorney documents—*(1) *Form 2848.* A properly completed form 2848 satisfies the requirements for both a power of attorney (as described in § 601.503(a)) and a declaration of representative (as described in § 601.502(b)).

(2) *Other documents.* The Internal Revenue Service will accept a power of attorney other than form 2848 provided such document satisfies the requirements of § 601.503(a). However, for purposes of processing such documents onto the Centralized Authorization File (see § 601.506(d)), a completed form 2848 must be attached. (In such situations, form 2848 is not the operative power of attorney and need not be signed by the taxpayer. However, the Declaration of Representative must be signed by the representative.)

(3) *Special provision.* The Internal Revenue Service will not accept a power of attorney which fails to include the information required by §§ 601.503(a)(1) through (5). If a power of attorney fails to include some or all of the information required by such section, the attorney-in-fact can cure this defect by executing a form 2848 (on behalf of the taxpayer) which includes the missing information. Attaching a form 2848 to a copy of the original power of attorney will validate the original power of attorney (and will be treated in all circumstances as one signed and filed by the taxpayer) provided the following conditions are satisfied—

(i) The original power of attorney contemplates authorization to handle, among other things, Federal tax matters, (e.g., the power of attorney includes language to the effect that the attorney-in-fact has the authority to perform any and all acts).

(ii) The attorney-in-fact attaches a statement (signed under penalty of perjury) to the form 2848 which states that the original power of attorney is valid under the laws of the governing jurisdiction.

(4) *Other categories of powers of attorney.* Categories of powers of attorney not addressed in these rules (e.g., durable powers of attorney and limited powers of attorney) will be accepted by the Internal Revenue Service provided such documents satisfy the requirements of §§ 601.503(b) (2) or (3).

(c) *Signatures.* Internal Revenue Service officials may require a taxpayer (or such individual(s) required or authorized to sign on behalf of a taxpayer) to submit appropriate identification or evidence of authority. Except when form 2848 (or its equivalent) is executed by an attorney-in-fact under the provisions of § 601.503(b)(3), the individual who must execute a form 2848 depends on the type of taxpayer involved—

(1) *Individual taxpayer.* In matter(s) involving an individual taxpayer, a power of attorney must be signed by such individual.

(2) *Husband and wife.* In matters involving a joint return the following rules apply—

(i) *Joint representation.* In the case of any matter concerning a joint return in which both husband and wife are to be represented by the same representative(s), the power of attorney must be executed by both husband and wife.

(ii) *Individual representation.* In the case of any matter concerning a joint return in which both husband and wife are not to be represented by the same recognized representative(s), the power of attorney must be executed by the spouse who is to be represented. However, the recognized representative of such spouse cannot perform any act with respect to a tax matter that the spouse being represented cannot perform alone.

(3) *Corporation.* In the case of a corporation, a power of attorney must be executed by an officer of the corporation having authority to legally bind the corporation, who must certify that he/she has such authority.

(4) *Association.* In the case of an association, a power of attorney must be executed by an officer of the association having authority to legally bind the association, who must certify that he/she has such authority.

(5) *Partnership.* In the case of a partnership, a power of attorney must be executed by all partners, or if executed in the name of the partnership, by the partner or partners duly authorized to act for the partnership, who must certify that he/she has such authority.

(6) *Dissolved partnership.* In the case of a dissolved partnership, each of the

former partners must execute a power of attorney. However, if one or more of the former partners is deceased, the following provisions apply—

(i) The legal representative of each deceased partner(s) (or such person(s) having legal control over the disposition of partnership interest(s) and/or the share of partnership asset(s) of the deceased partner(s)) must execute a power of attorney in the place of such deceased partner(s). (See § 601.503(c)(6)(ii).)

(ii) Notwithstanding § 601.503(c)(6)(i), if the laws of the governing jurisdiction provide that such partner(s) has exclusive right to control or possession of the firm's assets for the purpose of winding up its affairs, the signature(s) of the surviving partner(s) alone will be sufficient. (If the surviving partner(s) claims exclusive right to control or possession of the firm's assets for the purpose of winding up its affairs, Internal Revenue Service officials may require the submission of a copy of or a citation to the pertinent provisions of the law of the governing jurisdiction upon which the surviving partner(s) relies.)

(d) *Fiduciaries.* In general, when a fiduciary is involved in a tax matter, a power of attorney is not required. Instead form 56, "Notice Concerning Fiduciary Relationship" should be filed. Types of taxpayer for which fiduciaries act are—

(1) *Dissolved corporation—(i) Appointed trustee.* In the case of a dissolved corporation, form 56, "Notice Concerning Fiduciary Relationship," should be filed by the liquidating trustee(s), if one or more have been appointed, or by the trustee(s) deriving authority under a law of the jurisdiction in which the corporation was organized. If there is more than one trustee, all must join unless it is established that fewer than all have authority to act in the matter under consideration. Internal Revenue Service officials may require the submission of a properly authenticated copy of the instrument and/or citation to the law under which the trustee derives his/her authority. If the authority of the trustee is derived under the law of a jurisdiction, Internal Revenue Service officials may require a statement (signed under penalty of perjury) setting forth the facts required by the law as a condition precedent to the vesting of authority in said trustee and stating that the authority of the trustee has not been terminated.

(ii) *No appointed trustee.* If there is no appointed trustee, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the stockholder(s) holding a majority of the voting stock of

the corporation as of the date of dissolution. Internal Revenue Service officials may require submission of a statement showing the total number of outstanding shares of voting stock as of the date of dissolution, the number of shares held by each signatory to a power of attorney, the date of dissolution, and a representation that no trustee has been appointed.

(2) *Insolvent taxpayer.* In the case of an insolvent taxpayer, form 56, "Notice Concerning Fiduciary Relationship," should be filed by the trustee, receiver, or attorney appointed by the court. Internal Revenue Service officials may require the submission of a certified order or document from the court having jurisdiction over the insolvent taxpayer which shows the appointment and qualification of the trustee, receiver, or attorney and that his/her authority has not been terminated. In cases pending before a court of the United States (e.g., U.S. District Court or U.S. Bankruptcy Court), an authenticated copy of the order approving the bond of the trustee, receiver, or attorney will meet this requirement.

(3) *Deceased taxpayers—(i) Executor, personal representative or administrator.* In the case of a deceased taxpayer, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the executor, personal representative or administrator if one has been appointed and is responsible for disposition of the matter under consideration. Internal Revenue Service officials may require the submission of a short-form certificate (or authenticated copy of letters testamentary or letters of administration) showing that such authority is in full force and effect at the time the form 56, "Notice Concerning Fiduciary Relationship," is filed.

(ii) *Testamentary trustee(s).* In the event that a trustee is acting under the provisions of the will, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the trustee, unless the executor, personal representative or administrator has not been discharged and is responsible for disposition of the matter. Internal Revenue Service officials may require either the submission of evidence of the discharge of the executor and appointment of the trustee or other appropriate evidence of the authority of the trustee.

(iii) *Residuary legatee(s).* If no executor, administrator, or trustee named under the will is acting or responsible for disposition of the matter and the estate has been distributed to the residuary legatee(s), a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the residuary legatee(s). Internal Revenue

Service officials may require the submission of a statement from the court certifying that no executor, administrator, or trustee named under the will is acting or responsible for disposition of the matter, naming the residuary legatee(s), and indicating the proper share to which each is entitled.

(iv) *Distributee(s).* In the event that the decedent died intestate and the administrator has been discharged and is not responsible for disposition of the matter (or none was ever appointed), a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the distributee(s). Internal Revenue Service officials may require the submission of evidence of the discharge of the administrator (if one had been appointed) and evidence that the administrator is not responsible for disposition of the matter. It also may require a statement(s) signed under penalty of perjury (and such other appropriate evidence as can be produced) to show the relationship of the individual(s) who sign the form 56, "Notice Concerning Fiduciary Relationship," to the decedent and the right of each signer to the respective shares of the assets claimed under the law of the domicile of the decedent.

(4) *Taxpayer for whom a guardian or other fiduciary has been appointed.* In the case of a taxpayer for whom a guardian or other fiduciary has been appointed by a court of record, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the fiduciary. Internal Revenue Service officials may require the submission of a court certificate or court order showing that the individual who executes the form 56, "Notice Concerning Fiduciary Relationship," has been appointed and that his/her appointment has not been terminated.

(5) *Taxpayer who has appointed a trustee.* In the case of a taxpayer who has appointed a trustee, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the trustee. If there is more than one trustee appointed, all should join unless it is shown that fewer than all have authority to act. Internal Revenue Service officials may require the submission of documentary evidence of the authority of the trustee to act. Such evidence may be either a copy of a properly executed trust instrument or a certified copy of extracts from the trust instruments, showing—

- (i) The date of the instrument;
- (ii) That it is or is not of record in any court;
- (iii) The names of the beneficiaries;

(iv) The appointment of the trustee, the authority granted, and other information as may be necessary to show that such authority extends to Federal tax matters; and

(v) That the trust has not been terminated and the trustee appointed therein is still legally acting as such.

In the event that the trustee appointed in the original trust instrument has been replaced by another trustee, documentary evidence of the appointment of the new trustee must be submitted.

(e) *Commissioner's authority to substitute other requirements for power of attorney.* Upon application of a taxpayer or a recognized representative, the Commissioner of Internal Revenue may substitute a requirement(s) other than provided herein for a power of attorney as evidence of the authority of the representative.

§ 601.504 Requirements for filing power of attorney.

(a) *Situations in which a power of attorney is required.* Except as otherwise provided in § 601.504(b), a power of attorney is required by the Internal Revenue Service when the taxpayer wishes to authorize a recognized representative to perform one or more of the following acts on behalf of the taxpayer—

(1) *Representation.* (See §§ 601.501(b)(10) and 601.501(b)(13).)

(2) *Waiver.* Offer and/or execution of either

(i) A waiver of restriction on assessment or collection of a deficiency in tax, or

(ii) A waiver of notice of disallowance of a claim for credit or refund.

(3) *Consent.* Execution of a consent to extend the statutory period for assessment or collection of a tax.

(4) *Closing agreement.* Execution of a closing agreement under the provisions of the Internal Revenue Code and the regulations thereunder.

(5) *Check drawn on the United States Treasury.* The authority to receive (but not endorse or collect) a check drawn on the United States Treasury must be specifically granted in a power of attorney. (The endorsement and payment of a check drawn on the United States Treasury are governed by Treasury Department Circular No. 21, as amended, 31 CFR part 240. Endorsement and payment of such check by any person other than the payee must be made under one of the special types of powers of attorney prescribed by Circular No. 21, 31 CFR part 240. For restrictions on the assignment of claims, see Revised Statute section 3477, as amended (31 U.S.C. 3727).)

(6) *Signing tax returns.* The filing of a power of attorney does not authorize the recognized representative to sign a tax return on behalf of the taxpayer unless such act is both—

(i) Permitted under the Internal Revenue Code and the regulations thereunder (e.g., the authority to sign income tax returns is governed by the provisions of § 1.6012-1(a)(5) of the Income Tax Regulations); and

(ii) Specifically authorized in the power of attorney.

(b) *Situations in which a power of attorney is not required.* (1) *Disclosure of confidential tax information.* The submission of a tax information authorization to request a disclosure of confidential tax information does not constitute practice before the Internal Revenue Service. (Such procedure is governed by the provisions of section 6103 of the Internal Revenue Code and the regulations thereunder.) Nevertheless, if a power of attorney is properly filed, the recognized representative also is authorized to receive and/or inspect confidential tax information concerning the matter(s) specified (provided the power of attorney places no limitations upon such disclosure).

(2) *Estate matter.* A power of attorney is not required at a conference concerning an estate tax matter if the individual seeking to act as a recognized representative presents satisfactory evidence to Internal Revenue Service officials that he/she is—

(i) An individual described in § 601.502(a); and

(ii) The attorney of record for the executor, personal representative, or administrator before the court where the will is probated or the estate is administered.

(3) *Bankruptcy matters.* A power of attorney is not required in the case of a trustee, receiver, or an attorney (designated to represent a trustee, receiver, or debtor in possession) appointed by a court having jurisdiction over a debtor. In such a case, Internal Revenue Service officials may require the submission of a certificate from the court having jurisdiction over the debtor showing the appointment and qualification of the trustee, receiver, or attorney and that his/her authority has not been terminated. In cases pending before a court of the United States (e.g., U.S. District Court or U.S. Bankruptcy Court), an authenticated copy of the order approving the bond of the trustee, receiver, or attorney will meet this requirement.

(c) *Administrative requirements of filing—*(1) *General.* Except as provided in this section, a power of attorney

(including the declaration of representative and any other required statement(s)) must be filed in each office of the Internal Revenue Service in which the recognized representative desires to perform one or more of the acts described in § 601.504(a).

(2) *Regional offices.* If a power of attorney (including the declaration of representative and any other required statement(s)) is filed with the office of a district director or with a service center which has the matter under consideration, it is not necessary to file a copy with the office of a regional commissioner which subsequently has the matter under consideration unless requested.

(3) *National Office.* In case of a request for a ruling or other matter to be considered in the National Office, a power of attorney, including the declaration of representative and any other required statement(s), must be submitted with each request or matter.

(4) *Copy of power of attorney.* The Internal Revenue Service will accept either the original or a copy of a power of attorney. A copy of a power of attorney received by facsimile transmission (FAX) also will be accepted.

(d) *Practice by correspondence.* If an individual desires to represent a taxpayer through correspondence with the Internal Revenue Service, such individual must submit a power of attorney, including the declaration of representative and any other required statement(s), even though no personal appearance is contemplated.

§ 601.505 Revocation, change in representation and substitution or delegation of representative.

(a) *By the taxpayer—*(1) *New power of attorney filed.* A new power of attorney revokes a prior power of attorney if it is granted by the taxpayer to another recognized representative with respect to the same matter. However, a new power of attorney does not revoke a prior power of attorney if it contains a clause stating that it does not revoke such prior power of attorney and there is attached to the new power of attorney either—

(i) a copy of the unrevoked prior power of attorney; or

(ii) a statement signed by the taxpayer listing the name and address of each recognized representative authorized under the prior unrevoked power of attorney.

(2) *Statement of revocation filed.* A taxpayer may revoke a power of attorney without authorizing a new representative by filing a statement of

revocation with those offices of the Internal Revenue Service where the taxpayer has filed the power of attorney to be revoked. The statement of revocation must indicate that the authority of the first power of attorney is revoked and must be signed by the taxpayer. Also, the name and address of each recognized representative whose authority is revoked must be listed (or a copy of the power of attorney to be revoked must be attached).

(b) *By the recognized representative—*

(1) *Revocation of power of attorney.* A recognized representative may withdraw from representation in a matter in which a power of attorney has been filed by filing a statement with those offices of the Internal Revenue Service where the power of attorney to be revoked was filed. The statement must be signed by the representative and must identify the name and address of the taxpayer(s) and the matter(s) from which the representative is withdrawing.

(2) *Substitution or delegation of recognized representative.* Any recognized representative appointed in a power of attorney may substitute or delegate authority under the power of attorney to another recognized representative if substitution or delegation is specifically permitted under the power of attorney. Unless otherwise provided in the power of attorney, a recognized representative may make a substitution or delegation without the consent of any other recognized representative appointed to represent the taxpayer in the same matter. A substitution or delegation if effected by filing the following items with offices of the Internal Revenue Service where the power of attorney has been filed—

(i) *Notice of substitution or delegation.* A Notice of Substitution or Delegation is a statement signed by the recognized representative appointed under the power of attorney. The statement must contain the name and mailing address of the new recognized representative and, if more than one individual is to represent the taxpayer in the matter, a designation of which recognized representative is to receive notices and other written communications;

(ii) *Declaration of representative.* A written declaration which is made by the new representative as required by § 601.502(b); and

(iii) *Power of attorney.* A power of attorney which specifically authorizes the substitution or delegation.

An employee of a recognized representative may not be substituted

for his/her employer with respect to the representation of a taxpayer before the Internal Revenue Service unless the employee is a recognized representative in his/her own capacity under the provisions of § 601.502(a). However, even if such employee is not a recognized representative in his/her own capacity under the provisions of § 601.502(a), that individual may be authorized by the taxpayer under a tax information authorization to receive and/or inspect confidential tax information under the provisions of section 6103 of the Internal Revenue Code and the regulations thereunder.

§ 601.506 Notices to be given to recognized representative; direct contact with taxpayer; delivery of a check drawn on the United States Treasury to recognized representative.

(a) *General.* Any notice or other written communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter before the Internal Revenue Service must be given to the taxpayer and, unless restricted by the taxpayer, to the representative according to the following procedures—

(1) If the taxpayer designates more than one recognized representative to receive notices and other written communications, it will be the practice of the Internal Revenue Service to give copies of such to two (but not more than two) individuals so designated.

(2) In a case in which the taxpayer does not designate which recognized representative is to receive notices, it will be the practice of the Internal Revenue Service to give notices and other communications to the first recognized representative appointed on the power of attorney.

(3) Failure to give notice or other written communication to the recognized representative of a taxpayer will not affect the validity of any notice or other written communication delivered to a taxpayer.

Unless otherwise indicated in the document, a power of attorney other than form 2848 will be presumed to grant the authority to receive notices or other written communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter(s) before the Internal Revenue Service to which the power of attorney pertains.

(b) *Cases where taxpayer may be contacted directly.* Where a recognized representative has unreasonably delayed or hindered an examination, collection or investigation by failing to furnish, after repeated request, nonprivileged information necessary to the examination, collection or

investigation, the Internal Revenue Service employee conducting the examination, collection or investigation may request the permission of his/her immediate supervisor to contact the taxpayer directly for such information.

(1) *Procedure.* If such permission is granted, the case file will be documented with sufficient facts to show how the examination, collection or investigation was being delayed or hindered. Written notice of such permission, briefly stating the reason why it was granted, will be given to both the recognized representative and the taxpayer together with a request of the taxpayer to supply such nonprivileged information. (See 7521(c) of the Internal Revenue Code and the regulations thereunder.)

(2) *Effect of direct notification.*

Permission to by-pass a recognized representative and contact a taxpayer directly does not automatically disqualify an individual to act as the recognized representative of a taxpayer in a matter. However, such information may be referred to the Director of Practice for possible disciplinary proceedings under Circular No. 230, 31 CFR part 10.

(c) *Delivery of a check drawn on the United States Treasury—*(1) *General.* A check drawn on the United States Treasury (e.g., a check in payment of refund of internal revenue taxes, penalties, or interest, see § 601.504(a)(5)) will be mailed to the recognized representative of a taxpayer provided that a power of attorney is filed containing specific authorization for this to be done.

(2) *Address of recognized representative.* The check will be mailed to the address of the recognized representative listed on the power of attorney unless such recognized representative notifies the Internal Revenue Service in writing that his/her mailing address has been changed.

(3) *Authorization of more than one recognized representative.* In the event a power of attorney authorizes more than one recognized representative to receive a check on the taxpayer's behalf, and such representatives have different addresses, the Internal Revenue Service will mail the check directly to the taxpayer, unless a statement (signed by all of the recognized representatives so authorized) is submitted which indicates the address to which the check is to be mailed.

(4) *Cases in litigation.* The provisions of § 601.506(c) concerning the issuance of a tax refund do not apply to the issuance of a check in payment of claims which have been either reduced

to judgment or settled in the course (or as a result) of litigation.

(d) *Centralized Authorization File (CAF) system*— (1) *Information recorded onto the CAF system.* Information from both powers of attorney and tax information authorizations is recorded onto the CAF system. Such information enables Internal Revenue Service personnel who do not have access to the actual power of attorney or tax information authorizations to—

(i) Determine whether a recognized representative or an appointee is authorized by a taxpayer to receive and/or inspect confidential tax information;

(ii) Determine, in the case of a recognized representative, whether that representative is authorized to perform the acts set forth in § 601.504(a); and

(iii) Send copies of computer generated notices and communications to an appointee or recognized representative so authorized by the taxpayer.

(2) *CAF number.* A Centralized Authorization File (CAF) number generally will be issued to—

(i) A recognized representative who files a power of attorney and a written declaration of representative; or

(ii) An appointee authorized under a tax information authorization.

The issuance of a CAF number does not indicate that a person is either recognized or authorized to practice before the Internal Revenue Service. Such determination is made under the provisions of Circular No. 230, 31 CFR part 10. The purpose of the CAF number is to facilitate the processing of a power of attorney or a tax information authorization submitted by a recognized representative or an appointee. A recognized representative or an appointee should include the same CAF number on every power of attorney or tax information authorization filed. However, because the CAF number is not a substantive requirement (i.e., as listed in § 601.503(a)), a tax information authorization or power of attorney which does not include such number will not be rejected based on the absence of a CAF number.

(3) *Tax matters recorded on CAF.* Although a power of attorney or tax information authorization may be filed in all matters under the jurisdiction of the Internal Revenue Service, only those documents which meet each of the following criteria will be recorded onto the CAF system—

(i) *Specific tax period.* Only documents which concern a matter(s)

relating to a specific tax period will be recorded onto the CAF system. A power of attorney or tax information authorization filed in a matter unrelated to a specific period (e.g., the 100% penalty for failure to pay over withholding taxes imposed by section 6672 of the Internal Revenue Code, applications for an employer identification number, and requests for a private letter ruling request pertaining to a proposed transaction) cannot be recorded onto the CAF system.

(ii) *Future three-year limitation.* Only documents which concern a tax period that ends no later than three years after the date on a power of attorney is received by the Internal Revenue Service will be recorded onto the CAF system. For example, a power of attorney received by the Internal Revenue Service on August 1, 1990, which indicates that the authorization applies to form 941 for the quarters ended December 31, 1990 through December 31, 2000, will be recorded onto the CAF system for the applicable tax periods which end no later than July 31, 1993 (i.e., three years after the date of receipt by the Internal Revenue Service).

(iii) *Documents for prior tax periods.* Documents which concern any tax period which has ended prior to the date on which a power of attorney is received by the Internal Revenue Service will be recorded onto the CAF system provided that matters concerning such years are under consideration by the Internal Revenue Service.

(iv) *Limitation on representatives recorded onto the CAF system.* No more than three representatives appointed under a power of attorney or three persons designated under a tax information authorization will be recorded onto the CAF system. If more than three representatives are appointed under a power of attorney or more than three persons designated under a tax information authorization, only the first three names will be recorded onto the CAF system.

The fact that a power of attorney or tax information authorization cannot be recorded onto the CAF system is not determinative of the (current or future) validity of such document. (For example, documents which concern tax periods that end more than three years from the date of receipt by the IRS are not invalid for the period(s) not recorded onto the CAF system, but can be resubmitted at a later date.)

§ 601.507 Evidence required to substantiate facts alleged by a recognized representative.

The Internal Revenue Service may require a recognized representative to submit all evidence, except that of a supplementary or incidental character, over a declaration (signed under penalty of perjury) that the recognized representative prepared such submission and that the facts contained therein are true. In any case in which a recognized representative is unable or unwilling to declare his/her own knowledge that the facts are true and correct, the Internal Revenue Service may require the taxpayer to make such a declaration under penalty of perjury.

§ 601.508 Dispute between recognized representatives of a taxpayer.

Where there is a dispute between two or more recognized representatives concerning who is entitled to represent a taxpayer in a matter pending before the Internal Revenue Service (or to receive a check drawn on the United States Treasury), the Internal Revenue Service will not recognize any party. However, if the contesting recognized representatives designate one or more of their number under the terms of an agreement signed by all, the Internal Revenue Service will recognize such designated recognized representatives upon receipt of a copy of such agreement according to the terms of the power of attorney.

§ 601.509 Power of attorney not required in cases docketed in the Tax Court of the United States.

The petitioner and the Commissioner of Internal Revenue stand in the position of parties litigant before a judicial body in a case docketed in the Tax Court of the United States. The Tax Court has its own rules of practice and procedure and its own rules respecting admission to practice before it. Accordingly, a power of attorney is not required to be submitted by an attorney of record in a case which is docketed in the Tax Court. Correspondence in connection with cases docketed in the Tax Court will be addressed to counsel of record before the Court. However, a power of attorney is required to be submitted by an individual other than the attorney of record in any matter before the Internal Revenue Service concerning a docketed case.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 91-12429 Filed 5-24-91; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1 91-021]

National Sweepstakes Regatta, Red Bank, NJ

AGENCY: Coast Guard; DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the special local regulations contained in 33 CFR 100.103 which govern the National Sweepstakes Regatta. This final rule amends the permanent regulations, 33 CFR 100.103, by changing the dates on which the National Sweepstakes Regatta will take place to between 8 a.m. and 6 p.m. on June 14, 15, and 16, 1991. This change in the date of the event represents the sole change to the existing permanent regulations. These regulations are needed to provide for the safety of life on the navigable waters of the United States.

EFFECTIVE DATES: These regulations will be effective on June 14, 15, and 16, 1991, from 8 a.m. to 6 p.m.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (junior grade) E. G. Westerberg, Chief Boating Safety Affairs Branch, (617) 223-8310.

SUPPLEMENTARY INFORMATION: On April 24, 1991, the Coast Guard published a notice of proposed rule making in the *Federal Register* for these regulations (56 FR 18795). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of these regulations are LT(jg) E. G. WESTERBERG, project officer, First Coast Guard District Boating Safety Affairs Branch, and LT R. E. KORROCH, project attorney, First Coast Guard District Legal Division.

Discussion of Comments

No public comments were received regarding these regulations.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the races. This should have a favorable impact on commercial facilities providing services to the spectators. Because this area is used

primarily by recreational boaters, impact on commercial traffic in the area will be negligible. The Coast Guard shall ensure that the regulated area is opened periodically, allowing transiting vessels to pass without undue delay. Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final 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. Section 100.103(b) is revised to read as follows:

§ 100.103 National Sweepstakes Regatta, Redbank NJ.

* * * * *

(b) *Effective period.* This regulation is effective from 8:00 am on the morning of June 14, 1991 until 6:00 p.m. in the evening of June 16, 1991, unless otherwise specified in the Coast Guard Local Notice to Mariners and a *Federal Register* notice.

* * * * *

Dated: May 14, 1991.

R.I. Rybacki,

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

[FR Doc. 91-12509 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-014-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 440

[MB-014-CN]

RIN 0938-AD16

Medicaid Program; Eligibility Groups, Coverage, and Conditions of Eligibility; Legislative Changes Under OBRA '87, COBRA, and TEFRA

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule; correction notice.

SUMMARY: This notice corrects 42 CFR 440.210, Required services for the categorically needy, 42 CFR 440.220,

Required services for the medically needy, and 42 CFR 440.250, Limits on comparability of services, to restore current text which was inadvertently deleted in the final rule and to make conforming redesignation changes. This notice rescinds a correction notice published on March 14, 1991, in which certain corrections pertaining to §§ 440.220 and 440.250 were inadvertently omitted.

EFFECTIVE DATES: These corrections are effective November 12, 1990.

FOR FURTHER INFORMATION CONTACT:

Valerie Krauss, (301) 966-4670.

SUPPLEMENTARY INFORMATION: On November 21, 1990, in FR Doc. 90-27393, we published a final rule that included revisions to 42 CFR part 440. In doing so, we failed to take into account changes made to part 440 by a final rule published on September 7, 1990 (55 FR 36813). As a result, we inadvertently deleted in the November 21 final rule regulatory text that was added to §§ 440.210 and 440.220 by the September 7 final rule. Consequently, we published a correction notice, FR Doc. 91-5923, on March 14, 1991 at 56 FR 10807 to integrate the provisions of the two final rules, to restore the deleted text in §§ 440.210 and 440.220, and to make technical changes to § 440.250. However, the correction notice inadvertently omitted certain corrections pertaining to §§ 440.220 and 440.250. We are, therefore, rescinding the correction notice published on March 14, 1991, and are republishing it to include the omitted material.

A. In vol. 56, on pages 10807 and 10808, the corrections in document 91-5923 are rescinded.

B. In vol. 55, on page 48611, column 1, § 440.210, is correctly revised to read as follows:

§ 440.210 Required services for the categorically needy.

(a) A State plan must specify that, as a minimum, categorically needy recipients are provided the following services:

(1) The services as specified in §§ 440.10 through 440.50, 440.70 and (to the extent nurse-midwives are authorized to practice under State law or regulation), § 440.165;

(2) Pregnancy-related services and services for other conditions that might complicate the pregnancy.

(i) Pregnancy-related services are those services that are necessary for the health of the pregnant woman and fetus, or that have become necessary as a result of the woman having been pregnant. These include, but are not

limited to, prenatal care, delivery, postpartum care, and family planning services.

(ii) Services for other conditions that might complicate the pregnancy include those for diagnoses, illnesses, or medical conditions which might threaten the carrying of the fetus to full term or the safe delivery of the fetus; and

(3) For women who, while pregnant, applied for, were eligible for, and received Medicaid services under the plan, all services under the plan that are pregnancy-related for an extended postpartum period. The postpartum period begins on the last day of pregnancy and extends through the end of the month in which the 60-day period following termination of pregnancy ends.

(b) A State plan must specify that eligible aliens as defined in §§ 435.406(a) and 436.406(a) of this subchapter will receive at least the services provided in paragraph (a) of this section.

(c) A State plan must specify that aliens not defined in §§ 435.406(a) and 436.406(a) of this subchapter will only be provided the limited services specified in § 440.255.

C. In vol. 55, on page 48611, column 2, § 440.220 is correctly revised to read as follows:

§ 440.220 Required services for the medically needy.

(a) A State plan that includes the medically needy must specify that the medically needy are provided, as a minimum, the following services:

(1) Prenatal care and delivery services for pregnant women.

(2) Ambulatory services, as defined in the State plan, for—

(i) Individuals under age 18; and
(ii) Individuals entitled to institutional services.

(3) Home health services (§ 440.70) to any individual entitled to skilled nursing facility services.

(4) If the State plan includes services in an institution for mental diseases (§ 440.140 or § 440.160) or in an intermediate care facility for the mentally retarded (§ 440.150(c)) for any group of medically needy, either of the following sets of services to each of the medically needy groups:

(i) The services contained in §§ 440.10 through 440.50 and (to the extent nurse-midwives are authorized to practice under State law or regulation) § 440.165; or

(ii) The services contained in any seven of the sections in §§ 440.10 through 440.165.

(5) For women who, while pregnant, applied for, were eligible as medically

needy for, and received Medicaid services under the plan, services under the plan that are pregnancy-related (as defined in § 440.210(a)(2)(i) of this subpart) for an extended postpartum period. The postpartum period begins on the last day of pregnancy and extends through the end of the month in which the 60-day period following termination of pregnancy ends.

(b) A State plan must specify that eligible aliens as defined in §§ 435.406(a) and 436.406(a) of this subchapter will receive at least the services provided in paragraphs (a)(4) (i) and (ii) of this section.

(c) A State plan must specify that aliens defined in §§ 435.406(b), 435.406(c), 436.406(b) and 436.406(c) of this subchapter will only be provided the limited services specified in § 440.255.

D. In vol. 55, on page 48611, column 2, § 440.250 is correctly revised to read as follows:

§ 440.250 Limits on comparability of services.

* * * * *

(o) [Reserved]

(p) A State may provide a greater amount, duration, or scope of services to pregnant women than it provides under its plan to other individuals who are eligible for Medicaid, under the following conditions:

(1) These services must be pregnancy-related or related to any other condition which may complicate pregnancy, as defined in § 440.210(a)(2) of this subpart; and

(2) These services must be provided in equal amount, duration, and scope to all pregnant women covered under the State plan.

(Catalog of Federal Domestic Assistance Program No. 93.714—Medical Assistance Program)

Dated: May 16, 1991.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 91-12442 Filed 5-24-91; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 5

[General Docket No. 90-217; FCC 91-112]

Establishment of Procedures To Provide a Preference to Applicants Proposing an Allocation for New Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Commission's Rules to provide preferential treatment in its licensing process for parties requesting spectrum allocation rule charges associated with the development of new communications services and technologies. The objective of this action is to encourage innovators, including individuals, small businesses, and large corporations, to develop new services and technologies.

EFFECTIVE DATE: July 30, 1991.

FOR FURTHER INFORMATION CONTACT: Rodney Small, telephone (202) 653-8116.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Final Rule in General Docket 90-217, FCC 91-112, adopted April 9, 1991, and released May 13, 1991.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239), 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, 1114 21st Street, NW., Washington, DC 20036.

Paperwork Reduction

Public reporting burden for this collection of information is estimated to vary from 50 hours to 500 hours per response, with an average of 325 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 the burden, to the Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project, OMB No. 3060-0446, Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project, OMB No. 3060-0446, Washington, DC 20503.

Summary of Final Rule

1. On July 14, 1989, Washington Center for Public Policy Research filed a petition requesting that the FCC initiate a proceeding to explore changes in the Commission's Rules that could foster the introduction and development of new communications technologies in the spectrum allocation and authorization process. In its petition, Washington Center asserted that the Commission's

current allocation and authorization processes inhibit the flow of venture capital to technological development involving use of the spectrum.

2. The Notice of Proposed Rule Making (notice) in this proceeding (55 FR 18738; May 4, 1990) proposed that a petitioner first proposing a new service through a spectrum allocation rule change and submitting pertinent information concerning its qualifications to be a licensee, its financial condition, and its plan for implementing service be awarded a license to operate in that service upon adoption by the Commission of rules for the service. The notice also proposed that application from other parties seeking to serve the same areas proposed by the petitioner be deferred for six months after grant of the petitioner's license or construction authorization. The notice requested comment on how novelty should be measured and what degree of novelty should be required in order for the preference to be obtained. As an alternative to the proposal to guarantee an innovator the opportunity to be a licensed service provider, the notice requested comment on the appropriateness of giving the innovator a comparative preference in a lottery or hearing. Finally, the notice sought comment on the desirability of permitting innovators to transfer their authorizations or licenses to other parties.

3. The Commission finds that a "pioneer's preference" is desirable and will foster a host of valuable new technologies and services for the public. The present method of assigning licenses, while beneficial in many respects, appears to have dissuaded in the past at least some potential pioneers from seeking the authorization of new communications services. Of greater concern is the possibility that a future pathbreaking new telecommunications technologies and services are introduced worldwide, American consumers may not have the early benefit of these technologies and services, owing to the belief of innovators that the regulatory burden is excessive in the United States.

4. To implement a pioneer's preference, the Commission will effectively guarantee an innovating party a license in the new service (assuming it is otherwise qualified) by permitting the recipient of a pioneer's preference to file a license application without being subject to competing applications. However, the innovator will not receive a headstart beyond the *de facto* headstart that may occur due to the time it may take other entities to

apply for and receive a license. The key public interest benefit of a preference is the assurance to the pioneering entity that, if otherwise qualified, it will receive a license.

5. Commenters convinced the Commission that its proposal to limit preferences to new communications services is too restrictive. The Commission is persuaded that both a new radio service and a new technology used to improve an existing service by significantly improving spectrum efficiency should be considered for a preference. In addition, proposals that promise to enable the sharing, or co-use, of allocated spectrum may qualify. By these modifications, the Commission recognizes the risks and uncertainties associated with various paths innovation might take not only to create new communications services, but to improve existing ones. However, the Commission will not consider a request for a preference simply for a new technology. Unless a new technology is associated with a licensable service, there is little opportunity for the Commission to create a system or rewards to encourage its implementation.

6. An applicant for a preference will be required to file a petition for rule making for either a new service or a new technology used to improve an existing service, and a separate preference request. The preference request must be accompanied by either a demonstration of the technical feasibility of the new service or technology or an experimental license application, unless an experimental license application has previously been filed for that new service or technology. The Commission believes that such a technical showing or experiment can aid in its public interest determination. However, no financial showing will be required. The Commission believes that an applicant who develops a viable proposal will be able to attract financial support at the time the Commission awards a preference.

7. To provide guidance to innovators and financial institutions as to when a preference might be granted, the Commission will use a flexible standard. Specifically, the Commission, in its discretion, will award a preference to an entity that demonstrates that it (or its predecessor-in-interest) has developed an innovative proposal that leads to the establishment of a service not currently provided, *provided* that the rules adopted for the new or existing service are a reasonable outgrowth of the proposal and lend themselves to the grant of a preference and a license to

the pioneer. The Commission believes that awarding a preference based on such a standard will provide innovators and financial institutions with sufficient certainty while at the same time ensuring that the Commission can consider and take into account a wide array of innovative services and technologies. In the context of the comment process on a request for a preference, the Commission may seek the opinion of specific recognized experts in scientific disciplines that are relevant to proposals before the Commission.

8. Regarding the area of the preference award, the Commission will permit the person receiving a preference to select the one area of licensing that it desires to serve. The area selected will depend on how the Commission report and order defines the area of operation under its rules; e.g., city or region. In cases where the Commission adopts rules defining service areas different than had been proposed or anticipated by the petitioner, it will permit a choice of eventual licensing for the pioneer to be made after a report and order is adopted in the proceeding. In general, the Commission is adopting an approach such that the preference would be awarded for the area defined for the service under its licensing rules. However, the Commission will not grant a nationwide preference unless the service is inherently nationwide.

9. With respect to the number of preferences to be awarded, the Commission believes that in many services there will be a single, clear-cut innovator, while in other services, it will be difficult to distinguish among several innovative parties. In the latter situations, the Commission finds it appropriate to award preferences to each applicant that can meet the eligibility standard for being awarded a preference. For example, if the Commission adopts rules that combine aspects of two or more applicants' proposals or rules that permit the use of two or more applicants' proposed technologies, more than one preference would be warranted. The Commission recognizes that there is a potential drawback to awarding multiple preferences in that some parties who are not truly pioneers may be encouraged to file "copycat" applications in an attempt to gain a preference. However, the Commission will look very carefully at each application to ensure that what is being proposed meets the standard set forth above.

10. The Commission notes that a situation could arise in which the final rules adopted for a service would be so

different from all of the service proposals that any preference would be inappropriate. Nevertheless, it will be the Commission's general policy to award a preference to any otherwise qualified innovator meeting the standard even if the final rules for the service are not identical to the innovator's original proposal. However, if the modifications are so significant that the particular innovator does not meet the eligibility standard, the Commission will not award a preference to that innovator. The Commission believes that such an approach should result in providing innovators with the certainty necessary to garner financial support in a timely manner and should ensure that the benefits of the new service can be realized expeditiously by the public.

11. With regard to timing of the preference award, the Commission believes that an initial determination of entitlement to a preference at the time the notice of proposed rule making (NPRM) on the innovator's proposal is issued will best serve the public interest. The Commission believes that if this decision is deferred to the report and order stage of the proceeding, it will prolong the regulatory uncertainty for the innovator and thereby have a chilling effect on investors' willingness to provide financial support. Nonetheless, as a situation may occasionally arise wherein a particular service either will not be adopted or will be modified to such an extent that no preference is warranted, a preference grant will not be made final until a report and order on the proposal is adopted by the Commission. If the grant is finalized, any application for a license would not be subject to competing applications.

12. The Commission will not permit the preference to be transferred. It is not the Commission's desire to create some new form of negotiable instrument and thereby encourage unjustified petitions from speculators hoping to obtain a thing of value to sell. By this decision, however, the Commission is not precluding a change of control of a preference attendant upon the sale of a company. To the extent a preference may be regarded as an asset, it may pass, along with other assets, to new ownership should a company be sold.

13. The Commission notes that adoption of the notice in this proceeding appears to have generated a number of experimental license applications, as well as requests for a pioneer's preference in various services. In order to treat all parties equitably, the Commission will allow parties who have

already filed an application for an experimental license to file a request for a pioneer's preference under the rules set forth herein. Those entities who have already filed a request for a preference will be required to submit a new request. Preference requests will be accepted except when an NPRM has already been issued proposing rules for a new service or modifications to rules in an existing service. This means that in Commission proceedings in which only a petition for rule making has been received or a notice of inquiry adopted, potential innovators are eligible to file for a preference.

14. The Commission also considered arguments that an innovator might be able to foreclose competition by refusing to license its related patents. In appropriate cases the Commission will consider the need to condition grant of a license to a pioneer's preference recipient on a requirement that it license any related patents on a nondiscriminatory basis to other entities providing the same service.

15. Accordingly, *It is Ordered*, that parts 1 and 5 of the Commission's Rules and Regulations are amended as specified below, effective July 30, 1991. This action is taken pursuant to sections 4(i), 7(a), 303 (c), (g), and (r), and 309(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303 (c), (g), and (r), and 309(a).

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 5

Experimental radio services (other than broadcast). Radio.

Rule Changes

16. Parts 1 and 5 of title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

17. The authority citation in part 1 continues to read:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement. 5 U.S.C. 552, unless otherwise noted.

18. A new § 1.402 is added to read as follows:

§ 1.402 Pioneer's preference.

(a) When filing a petition for rule making pursuant to § 1.401, that seeks an allocation of spectrum for a new service or which, by use of innovative technology, will substantially enhance an existing service, the petitioner may also submit a separate request that it be

awarded a pioneer's preference in the licensing process for the service. The preference request must contain pertinent information concerning its plan for implementing the service, the frequencies it proposes to use, the area for which the preference is sought, and must address any existing conflicting licensing rules such as multiple ownership, showing how these rules should or should not apply. The petitioner must demonstrate that it (or its predecessor-in-interest) has developed the new service or technology; e.g., that it (or its predecessor-in-interest) has brought out the capabilities or possibilities of the technology or service or has brought them to a more advanced or effective state. The petitioner must accompany its preference request with either a demonstration of the technical feasibility of the new service or technology, or an experimental license application, unless an experimental license application has previously been filed for that new service or technology. If the petitioner files or has filed an experimental license application, it must specify the area in which the applicant intends to conduct its experiment and whether that is the area for which a preference is sought. In determining in its discretion whether to grant a pioneer's preference, the Commission will consider whether the petitioner has demonstrated that it (or its predecessor-in-interest) has developed an innovative proposal that leads to the establishment of a service not currently provided or a substantial enhancement of an existing service. Additionally, the preference will be granted only where rules, as adopted, are a reasonable outgrowth of the proposal and lend themselves to the grant of a preference.

(b) An initial determination on a request for a pioneer's preference will be made at the time of the adoption (if any) of a notice of proposed rule making. A final determination on a request for a pioneer's preference (and its scope) will be made at the time of the adoption (if any) of a report and order adopting new rules. If awarded, the pioneer's preference will provide that the petitioner's application for a construction permit or license will not be subject to mutually exclusive applications.

(c) Any comments on the request for a pioneer's preference shall be filed in accordance with the pleading schedule set forth in § 1.405 of the rules, but not as part of comments on the petition for rule making.

(d) In the event of a conflict between this rule and any rule for a particular

service that provides for the filing and consideration of competing applications, this rule shall prevail.

19. Section 1.403 is revised to read as follows:

§ 1.403 Notice and availability.

All petitions for rule making (other than petitions to amend the FM, Television, and Air-Ground Tables of Assignments) meeting the requirements of § 1.401 will be given a file number, and promptly thereafter, a "Public Notice" will be given (by means of a Commission release entitled "Petition for Rule Making Filed") as to the petition, file number, nature of the proposal, and date of filing. If a petition for rule making includes a request for a pioneer's preference, that request will be separately listed in the Public Notice with a separate file number. Petitions are available for public inspection at the Commission's Dockets Reference Room in Washington, DC.

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

20. The authority citation in part 5 continues to read:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

21. A new § 5.207 is added to read as follows:

§ 5.207 Experiments performed in conjunction with pioneer's preference applications.

An applicant for a pioneer's preference pursuant to § 1.402 of this chapter may file an experimental license application concurrent with a petition for rule making requesting an allocation of spectrum for a new service or a rule amendment to permit use of a new technology. The experimental application should be for a limited geographical area, generally including no more than one Metropolitan Statistical Area.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-12436 Filed 5-24-91; 8:45 am]

BILLING CODE 6712-01-M

ACTION: Final rule.

SUMMARY: The Commission has revised its rules governing satellite communications. These rules codify and clarify licensing policies for earth stations and satellite facilities as well as eliminate unnecessary regulatory requirements. A new form, Form 493, is included and will increase the efficiency of the earth station licensing program and afford applicants clearer directions. The new rules include a registration procedure to facilitate domestic receive-only operations while affording the same interference protection as the previous licensing procedure. The rules eliminate the requirements for earth station construction permits and demonstrations of financial qualifications by applicants. A rule is established conditioning licenses on certification of completion of construction and commencement of operation. Other rules include codification of special temporary authority policies, licensing requirements for very small aperture terminal (VSAT) networks and transborder services, and requirements affecting applications for emergency replacement of domestic space stations, international coordination, and public notice of applications for earth station modifications. All operators of satellite facilities may be affected by these rules.

EFFECTIVE DATE: June 27, 1991, except for §§ 25.131(j) and 25.300(c) which contain an information collection requirement and are not effective until approved by the Office of Management and Budget. FCC will publish public notice of the effective date in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Rosalee Chiara, Satellite Radio Branch, Common Carrier Bureau, (202) 634-1624.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order in CC Docket No. 86-496, FCC 91-136, adopted April 23, 1991 and released May 21, 1991.

The full text of this Commission decision is available for inspection and copying during the 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, 1114 21st Street, NW., Washington, DC 20036.

The following are estimated average hours per response for the collections of information contained in 47 CFR part 25 which are subject to the clearance procedures of 5 CFR part 1320, *et seq.*:

FCC Form 493 and exhibits—24 hours; § 25.111—100 hours; § 25.113—20 hours; § 25.114—100 hours; § 25.115—5 hours; § 25.119—1 hour; § 25.133—1 hour; § 25.140—1000 hours; §§ 25.154 and 25.163—2 hours; and § 25.300—24 hours. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing this burden to Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to Office of Management and Budget, Paperwork Reduction Project (3060-0383). OMB control numbers for §§ 25.140 and 25.300 are 3060-0343 and 3060-0164, respectively.

Summary of First Report and Order

1. Several factors have necessitated adoption of this rulemaking. In 1983, the Commission reduced orbital spacings between domestic fixed-satellites to two degrees. 48 FR 40233 (September 6, 1983). Because of the greater potential for interference caused by this reduction, a joint industry-government advisory committee was established to make recommendations for regulations to alleviate interference problems. 50 FR 2671 (January 18, 1985). Rules were proposed to implement the recommendations of the advisory committee, to codify application filing and processing procedures, to eliminate certain outdated requirements and to adopt a new application form for earth stations. Comments by interested parties were solicited in a notice of proposed rulemaking, 2 FCC Rcd 762 (1987), 52 FR 6175, March 2, 1987, and seventy-eight entities responded.

2. After evaluating the comments, the Commission adopted rules revising and codifying application processing procedures for satellite communications services. In addition, a new earth station application form, Form 493, has been adopted which will simplify and clarify the licensing procedures. Specifically, these rules eliminate the construction permit requirement for most earth stations and eliminate the requirement that earth station applicants demonstrate financial qualifications. The rules also establish a registration program in lieu of licensing for domestic receive-only earth stations. Other rules include codification of special temporary authority policies, licensing requirements for very small aperture

47 CFR Part 25

[CC Docket No. 86-496; FCC 91-136]

Satellite Communication Services

AGENCY: Federal Communications Commission.

terminal (VSAT) networks and transborder services, and requirements affecting applications for emergency replacement of domestic space stations, international coordination, and public notice of applications for earth station modifications.

3. With respect to the technical and operational rules proposed in the *notice*, many commenters stated that the proposed rules would place a burden on licensees and questioned the technical and economic feasibility of these rules. The Commission is deferring action on the proposed technical and operation rules, pending further evaluation.

Regulatory Flexibility Analysis

4. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding will have an impact on all entities including small entities who seek authorization under part 25 of the Commission's rules to operate satellite facilities. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

Ordering Clauses

5. Accordingly, *It is Ordered*, That part 25 of the Commission's Rules and Regulations is amended as specified below, effective 30 days after publication in the *Federal Register*.

6. *It is Further Ordered*, That FCC Form 403 is superseded by new FCC Form 493 as set forth in the appendix to this document, subject to review by the Office of Management and Budget.¹

List of Subjects in 47 CFR Part 25

Satellites, Radio communications satellites.

Part 25 of the Commission's Rules and Regulations (Chapter I of title 47 of the Code of Federal Regulations) is amended as follows:

1. The Table of Contents for part 25 is revised to read as follows:

PART 25—SATELLITE COMMUNICATIONS

Subpart A—General

Sec.

- 25.101 Basis and scope.
- 25.102 Station authorization required.
- 25.103 Definitions.
- 25.104 Preemption of local zoning of earth stations.
- 25.105–25.108 [Reserved]
- 25.109 Cross-reference.

Subpart B—Applications and Licenses

GENERAL APPLICATION FILING REQUIREMENTS

- 25.110 Filing of applications, fees, and numbers of copies.
- 25.111 Additional information.
- 25.112 Defective applications.
- 25.113 Construction permits.
- 25.114 Applications for space station authorizations.
- 25.115 Applications for earth station authorizations.
- 25.116 Amendments to applications.
- 25.117 Modification of station license.
- 25.118 Assignment or transfer of control of station authorization.
- 25.119 Application for special temporary authorizations.
- 25.120 License term and renewals.

EARTH STATIONS

- 25.130 Filing requirements for transmitting earth stations.
- 25.131 Filing requirements for receive-only earth stations.
- 25.132 [Reserved]
- 25.133 Period of construction; certification of commencement of operation.

SPACE STATIONS

- 25.140 Qualifications of domestic fixed satellite space station licensees.
- 25.141 Licensing provisions for the radiodetermination satellite service.

PROCESSING OF APPLICATIONS

- 25.150 Receipt of applications.
- 25.151 Public notice period.
- 25.152 Dismissal and return of applications.
- 25.153 Repetitious applications.
- 25.154 Opposition to applications and other pleadings.
- 25.155 Mutually exclusive applications.
- 25.156 Consideration of applications.

FORFEITURE, TERMINATION, AND REINSTATEMENT OF STATION AUTHORIZATION

- 25.160 Administrative sanctions.
- 25.161 Automatic termination of station authorization.
- 25.162 Cause for termination of interference protection.
- 25.163 Reinstatement.

Subpart C—Technical Standards

- 25.201 Definitions.
- 25.202 Frequencies, frequency tolerance and emission limitations.
- 25.203 Choice of sites and frequencies.
- 25.204 Power limits.
- 25.205 Minimum angle of antenna elevation.
- 25.206 Station identification.

- 25.207 Cessation of emissions.
- 25.208 Power flux density limits.
- 25.209 Antenna performance standards.
- 25.251 Special requirements for coordination.
- 25.252 Maximum permissible interference power.
- 25.253 Determination of coordination distance for near great circle propagation mechanisms.
- 25.254 Computation of coordination distance contours for propagation modes associated with precipitation scatter.
- 25.255 Guidelines for performing interference analyses for near great circle propagation mechanisms.
- 25.256 Guidelines for performing interference analyses for precipitation scatter modes. [Reserved]

Subpart D—[Reserved]

Subpart E—Development Operations

- 25.300 Developmental authorization.
- 25.308 Automatic transmitter identification system.

Subparts F–G—[Reserved]

Subpart H—Authorization to Own Stock in the Communications Satellite Corporation

Sec.

- 25.501 Scope of this subpart.
- 25.502 Definitions.
- 25.503–25.504 [Reserved]
- 25.505 Persons requiring authorization.
- 25.506–25.514 [Reserved]
- 25.515 Method of securing authorization.
- 25.516–25.519 [Reserved]
- 25.520 Contents of applications.
- 25.521 Who may sign applications.
- 25.522 Full disclosures.
- 25.523 Form of application, number of copies, fees, etc.
- 25.524 [Reserved]
- 25.525 Action upon applications.
- 25.526 Amendments.
- 25.527 Defective applications.
- 25.528–25.529 [Reserved]
- 25.530 Scope of authorization.
- 25.531 Revocation of authorization.

2. The authority citation for part 25 continues to read as follows:

Authority: §§ 25.101 to 25.531 issued under sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–404, 76 Stat. 419–427; 47 U.S.C. 701–744.

3. In § 25.101, paragraph (a) is revised to read as follows:

§ 25.101 Basis and scope.

(a) The rules and regulations in this part are issued pursuant to the authority contained in section 201(c)(11) of the Communications Satellite Act of 1962, as amended, section 501(c)(6) of the International Maritime Satellite Telecommunications Act, and titles I through III of the Communications Act of 1934, as amended.

4. A new § 25.102 is added to read as follows:

¹ OMB has not yet approved the new FCC Form 493. A tentative copy of FCC Form 493 is in the appendix to this document. This form is not to be used until it has received the approval of the Office of Management and Budget. A public notice will be issued when the new form has been approved and is available for use. Until that time, the existing Form 403 should be used. We delegate to the Chief, Common Carrier Bureau, authority to issue a public notice detailing specific procedures to follow between the time the rules are effective and the new form is available.

§ 25.102 Station authorization required.

(a) No person shall use or operate apparatus for the transmission of energy or communications or signals by space or earth stations except under, and in accordance with, an appropriate authorization granted by the Federal Communications Commission.

(b) Protection from impermissible levels of interference to the reception of signals by earth stations in the Fixed-Satellite Service from terrestrial stations in a co-equally shared band is provided through the authorizations granted under this part.

§§ 25.105, 25.106, 25.107 & 25.108 [Reserved]

5. Sections 25.105, 25.106, 25.107, and 25.108 are added and reserved.

6. A new § 25.109 is added to read as follows:

§ 25.109 Cross-reference.

The space radiocommunications stations in the following services are not licensed under this part:

(a) Amateur Satellite Service, see 47 CFR part 97.

(b) Direct Broadcasting Satellite Service, see 47 CFR part 100; and

(c) Ship earth stations in the Maritime Mobile Satellite Service, see 47 CFR part 83.

7. Subpart B is removed and a new subpart B is added to read as follows:

Subpart B—Applications and Licenses**GENERAL APPLICATION FILING REQUIREMENTS****§ 25.110 Filing of applications, fees, and number of copies.**

(a) Standard application forms applicable to this Part may be obtained by writing Federal Communications Commission, Forms Distribution Center, 2803 52nd Ave., Hyattsville, MD 20781 or calling (202) 632-FORM.

(b) Applications for satellite radio station authorizations governed by this part and requiring a fee shall be mailed or hand-delivered to the location specified in part 1, subpart G of this title. All other applications shall be submitted to the Secretary, 1919 M Street, NW., Federal Communications Commission, Washington, DC 20554. Applications for facilities used for fixed-satellite service between the United States and foreign points should be addressed to the attention of Chief, International Facilities Division. All other applications should be addressed to the attention of Chief, Satellite Radio Branch. The following applications should be addressed to the attention of Chief, International Facilities Division:

(1) All applications for facilities utilizing the INTELSAT system, the INMARSAT system and for separate international satellite systems;

(2) Applications for facilities utilizing any satellites, other than U.S. domestic satellites, for the provision of fixed satellite service between the United States and foreign points;

(3) Applications proposing to construct and operate new earth stations for provision of transborder services only via U.S. and non-U.S. satellites.

(c) All correspondence and amendments concerning an application shall clearly identify the satellite radio service, the name of the applicant, station location, the call sign or other identification of the station, and the file number of the application involved (if available).

(d) Except as otherwise specified, all applications, amendments, and correspondence shall be submitted in triplicate, including exhibits and attachments thereto. All matters relating to space station applications shall be submitted as an original and nine copies.

(e) The original copy of the application shall be signed as specified in § 1.743 of this chapter, and shall supply the information prescribed by this Part for the particular authorization requested. All other copies may be conformed.

(f) Each application shall be accompanied by the appropriate fee, specified by, and submitted in accordance with, subpart G of part 1 of this Chapter.

§ 25.111 Additional information.

(a) The Commission may request from any party at any time additional information concerning any application, or any other submission or pleading regarding an application, filed under this part.

(b) Applicants, permittees and licensees of radio stations governed by this part shall provide the Commission with all information it requires for the Advance Publication, coordination and notification of frequency assignments pursuant to the international Radio Regulations and consultations required by Article XIV of the INTELSAT Agreement and Article 8 of the INMARSAT Convention. This information includes, but is not limited to, that specified in appendices 3 and 4 of the Radio Regulations (Geneva 1979). No protection from interference caused by radio stations authorized by other Administrations is guaranteed unless coordination procedures are timely completed or, with respect to individual

administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments with other Administrations.

§ 25.112 Defective applications.

(a) An application will be unacceptable for filing and will be returned to the applicant with a brief statement identifying the omissions or discrepancies if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, internal inconsistencies, execution, or other matters of a formal character; or

(2) The application does not substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements.

(b) Applications considered defective under paragraph (a) of this section may be accepted for filing if:

(1) The application is accompanied by a request which sets forth the reasons in support of a waiver of (or an exception to), in whole or in part, any specific rule, regulation, or requirement with which the application is in conflict;

(2) The Commission, upon its own motion, waives (or allows an exception to), in whole or in part, any rule, regulation or requirement.

(c) If an applicant is requested by the Commission to file any additional information or any supplementary or explanatory information not specifically required in the prescribed application form or these rules, a failure to comply with the request within a specified time period will be deemed to render the application defective and will subject it to dismissal.

§ 25.113 Construction permits.

(a) Except as provided in paragraph (b) of this section or in § 25.131, construction permits must be obtained for all fixed or temporary fixed earth stations and for all space station facilities governed by this Part. Simultaneous application for a construction permit and station license may be made for all earth station and space station facilities governed by this Part.

(b) Construction permits are not required for domestic satellite earth stations, for satellite earth stations that operate with INTELSAT or INMARSAT space stations, or for earth stations that operate with international space stations licensed pursuant to

Establishing of Satellite Systems Providing International Communications, 50 FR 42266 (October 18, 1985), 101 FCC 2d 1046 (1985). Construction of such stations may commence prior to grant of a license at the applicant's own risk. Applicants must comply with the provisions of 47 CFR 1.1312 relating to environmental processing prior to commencing construction.

(c) Applicants for earth station antenna facilities exceeding 6.10 meters above ground or existing manmade structure, see 47 CFR part 17, must file an FCC Form 854 with the Antenna Survey Branch and be notified of FCC clearance before beginning construction. A copy of this notification must accompany an application for earth station license or registration for antennas exceeding 6.10 meters above ground or existing manmade structures.

(d) In addition to the construction permit required by paragraph (a) of this section, a launch authorization must be applied for and granted before a space station may be launched and operated in orbit. Request for launch authorization and station license may be included in the application for space station construction permit. A launch authorization and station license may also be requested at any time for a space station constructed as an on-ground spare satellite. However, an application for authority to launch and operate an on-ground spare domestic satellite will be considered to be a newly filed application for cut-off purposes, except where the space station to be launched is determined to be an emergency replacement for a previously authorized space station which has been lost as a result of a launch failure or a catastrophic in-orbit failure.

§ 25.114 Applications for space station authorizations.

(a) A comprehensive proposal shall be submitted for each proposed space station in narrative form with attached exhibits as described in paragraph (c) of this section. A separate application should be filed for each space station to be constructed. If an applicant is proposing more than one space station, information common to all space stations may be submitted in a consolidated system proposal. This information may be incorporated by reference in the individual space station applications.

(b) Each application for a new or modified space station authorization must constitute a concrete proposal for Commission evaluation, although the applicant may propose alternatives that

increase flexibility in accommodating the satellite in orbit. Each application must also contain the formal waiver required by section 304 of the Communications Act, 47 CFR 304. The technical information for a proposed satellite radio system need not be filed on any prescribed form but should be complete in all pertinent details. Applications should be captioned in a manner that clearly distinguishes individual satellites within the applicant's system. The format of the applications should conform to the specifications of § 1.49 of this chapter.

(c) The following information shall be contained in the separate applications:

(1) Name, post office address and telephone number of the applicant.

(2) Name, address and telephone number of the person(s), including counsel, to whom inquiries or correspondence should be directed.

(3) Type of authorization requested (e.g., construction permit, launch authority, station license, modification of authorization).

(4) General description of overall system facilities, operations and services.

(5) Radio frequencies and polarization plan (including beacon, telemetry, and telecommand functions), center frequency and polarization of transponders (both receiving and transmitting frequencies), emission designators and allocated bandwidth of emission, final amplifier output power (identify any net losses between output of final amplifier and input of antenna and specify the maximum EIRP for each antenna beam), identification of which antenna beams are connected or switchable to each transponder and TT&C function, receiving system noise temperature, the relationship between satellite receive antenna gain pattern and gain-to-temperature ratio and saturation flux density for each antenna beam (may be indicated on antenna gain plot), the gain of each transponder channel (between output of receiving antenna and input of transmitting antenna) including any adjustable gain step capabilities, and predicted receiver and transmitter channel filter response characteristics.

(6) Orbital location, or locations if alternatives are proposed, requested for the satellite, the factors which support such an orbital assignment, the range of orbital locations from which adequate service can be provided and the basis for determining that range of orbital locations, and a detailed explanation of all factors that would limit the orbital arc over which the satellite could adequately serve its expected users.

(7) Predicted space station antenna gain contour(s) for each transmit and each receive antenna beam and nominal orbital location requested. These contour(s) should be plotted on an area map at 2 dB intervals down to 10 dB below the peak value of the parameter and at 5 dB intervals between 10 dB and 20 dB below the peak values, with the peak value and sense of polarization clearly specified on each plotted contour.

(8) Estimated number and geographic distribution of earth stations, and description of proposed arrangements for access to the system between the premises of the users and the earth stations for domestic satellites only.

(9) A description of the types of services to be provided, the estimated demand for these services, and the areas and entities to be served, including a description of the transmission characteristics and performance objectives for each type of proposed service, details of the link noise budget, typical or baseline earth station parameters, modulation parameters and overall link performance analysis (including an analysis of the effects of each contributing noise and interference source). An estimate of transponder capacity under each of the proposed operating conditions must also be supplied.

(10) Accuracy with which the orbital inclination, the antenna axis attitude, and longitudinal drift will be maintained.

(11) Calculation of power flux density levels within each coverage area and of the energy dispersal, if any, needed for compliance with § 25.208.

(12) Launch vehicles and arrangements for procuring launch services.

(13) Arrangement for tracking, telemetry, and control.

(14) Physical characteristics of the space station including weight and dimensions of spacecraft, detailed mass (on ground and in-orbit) and power (beginning and end of life) budgets, and estimated operational lifetime and reliability of the space station and the basis for that estimate.

(15) A detailed description of the capabilities, if any, of each proposed domestic satellite to provide service to Alaska, Hawaii, and/or Puerto Rico/Virgin Islands.

(16) If the request is for additional or replacement satellites, detailed information on the historical use of the system transponder-by-transponder and on a year-by-year basis, together with a projection of the types and amount of

services, including restoral or protection requirements, for each additional satellite on a year-by-year and transponder-by-transponder basis over the estimated lifetime of the satellite(s).

(17) A detailed schedule of the estimated investment costs and operating costs for the proposed system by year, including annual depreciation, maintenance and operating costs, and the basis on which such costs are calculated. Estimated annual revenue requirements should be provided in detail on a year-by-year basis over the estimated design lifetime of the satellites, including any pre-operational periods.

(18) Detailed information demonstrating the financial qualifications of the applicant to construct and launch the proposed satellites. Applications for domestic satellite systems shall provide the financial information required by § 25.140 (b)-(e). Applications for international satellite systems shall provide the information required by Establishing of Satellite Systems Providing International Communications, 50 FR 42266 (October 18, 1985), 101 FCC 2d 1046 (1985).

(19) Legal qualifications of applicant. FCC Form 430 (Licensee Qualification Report). If FCC Form 430 is already on file, indicate date, radio service and file number of most recent filing.

(20) A clear and detailed statement of whether the space station is to be operated on a common carrier basis, or whether noncommon carrier transactions are proposed. If noncommon carrier transactions are proposed, describe the nature of the transactions and specify the number of transponders to be offered on a noncommon carrier basis.

(21) Dates by which construction will be commenced and completed, launch date, and estimated date of placement into service.

(22) Public interest considerations in support of grant.

(23) Applications for authorizations for domestic fixed-satellite space stations shall also include the information specified in § 25.140.

(24) Applications for international fixed-satellite authorizations shall also provide all information necessary to comply with the policies and procedures set forth in Establishing of Satellite Systems Providing International Communications, 50 FR 42266 (October 18, 1985), 101 FCC 2d 1046 (1985).

(25) Applications for authorizations in the Radiodetermination Satellite Service shall also include the information specified in § 25.141.

(26) Applications for authorizations in the Mobile Satellite Service shall also provide all information necessary to comply with the policies and procedures set forth in Rules and Policies Pertaining to the Use of Radio Frequencies in a Land Mobile Satellite Service, 52 FR 4017 (February 9, 1987), 2 FCC Rcd 485 (1987).

§ 25.115 Application for earth station authorizations.

(a) Transmitting earth stations. Except as provided under § 25.113(b), Commission authorization must be obtained for authority to construct and/or operate a transmitting earth station. Applications shall be filed on FCC Form 493 (Application for Authorization of Earth Station or for Modification of Station License) and include the information specified in § 25.130.

(b) Receive-only earth stations. Applications to license or register receive-only earth stations shall be filed on FCC Form 493 and conform to the provisions of § 25.131.

(c) Large Networks of Small Antennas operating in the 12/14 GHz bands with U.S. domestic satellites for domestic services. Applications to license small antenna network systems operating in the 12/14 GHz frequency band under blanket operating authority shall include the following:

(1) A general narrative section describing the applicant and the overall system operation,

(2) A Form 430 (License Qualification Report),

(3) A Form 493 for each large (5 meters or larger) hub station operating with the network,

(4) A Form 493 for each representative type of small antenna (less than 5 meters), and

(5) A designation of a point of contact where records of location and frequency use will be maintained.

§ 25.116 Amendments to applications.

(a) Unless otherwise specified, any pending application may be amended until designated for hearing, a public notice is issued stating that a substantive disposition of the application is to be considered at a forthcoming Commission meeting, or a final order disposing of the matter is adopted by the Commission.

(b) Major amendments submitted pursuant to paragraph (a) of this section are subject to the public notice requirements of § 25.151. An amendment will be deemed to be a major amendment under the following circumstances:

(1) If the amendment increases the potential for interference, or changes the

proposed frequencies or orbital locations to be used.

(2) If the amendment would convert the proposal into an action that may have a significant environmental effect under § 1.1307 of this chapter.

(3) If the amendment specifies a substantial change in beneficial ownership or control (*de jure* or *de facto*) of an applicant such that the change would require, in the case of an authorized station, the filing of a prior assignment or transfer of control application under section 310(d) of the Communications Act, provided however, that the change would not be considered major where it merely amends an application to reflect a change in ownership or control of the station that had been previously approved by the Commission.

(4) If the amendment, or the cumulative effect of the amendment, is determined by the Commission otherwise to be substantial pursuant to section 309 of the Communications Act.

(c) Any application will be considered to be a newly filed application if it is amended by a major amendment (as defined by paragraph (b) of this section) after a "cut-off" date applicable to the application, except under the following circumstances:

(1) The amendment resolves frequency conflicts with authorized stations or other pending applications but does not create new or increased frequency conflicts;

(2) The amendment reflects only a change in ownership or control found by the Commission to be in the public interest and, for which a requested exemption from a "cut-off" date is granted;

(3) The amendment corrects typographical, transcription, or similar clerical errors which are clearly demonstrated to be mistakes by reference to other parts of the application, and whose discovery does not create new or increased frequency conflicts; or

(4) The amendment does not create new or increased frequency conflicts, and is demonstrably necessitated by events which the applicant could not have reasonably foreseen at the time of filing.

(d) Any amendment to an application shall be signed and submitted in the same manner, and with the same number of copies, as was the original application.

§ 25.117 Modification of station license.

(a) Except as provided, no modification of a radio station governed by this part which affects the

parameters or terms and conditions of the station authorization shall be made except upon application to and grant of such application by the Commission. Licensees of U.S. domestic satellite earth stations proposing transmit and/or receive communications with U.S. domestic satellites for the provision of transborder services need not apply for modifications of their licenses provided that:

(1) Consultations pursuant to Article XIV(d) of the INTELSAT Agreement have been completed for the satellites, services and countries involved in the transborder services; and

(2) The operators of the U.S. domestic satellites have received specific authorization to provide the services to the proposed locations.

(b) Applications for modification of an earth station license to add, change or replace transmitters or antenna facilities conforming to § 25.209 will be considered to be minor modifications if the particulars of operations remain unchanged and frequency coordination is not required, provided however, that the maximum power and power density delivered into any antenna at the earth station site shall not exceed the values calculated by subtracting the maximum antenna gain specified in the license from the maximum authorized e.i.r.p. and e.i.r.p. density values.

(c) Applications for modification of earth station authorizations shall be submitted on FCC Form 493 except as set forth in paragraph (e) of this section.

(d) Applications for modifications of space station authorizations shall be filed in accordance with § 25.114, but only those items of information listed in § 25.114(c) that change need to be submitted provided the applicant certifies that the remaining information has not changed.

(e) Any application for modification of authorization to extend a required date of completion (e.g., begin construction, complete construction, launch, bring into operation) shall be filed on FCC Form 701 (Application for Additional Time to Construct). The application must include a verified statement from the applicant:

(1) That states the additional time is required due to unforeseeable circumstances beyond the applicant's control, describes these circumstances with specificity, and justifies the precise extension period requested; or

(2) That states there are unique and overriding public interest concerns that justify an extension, identifies these interests and justifies a precise extension period.

§ 25.183 Assignment or transfer of control of station authorization.

(a) No station license, nor any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation or any other entity holding such license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience and necessity will be served thereby.

(b) For purposes of this section, transfers of control requiring Commission approval shall include any and all transactions that:

(1) Change the party controlling the affairs of the licensee, or

(2) Affect any change in a controlling interest in the ownership of the licensee, including changes in legal or equitable ownership.

(c) Assignment of license. FCC Form 702 (Application for Consent to Assignment of Radio Station Construction Permit or License for Stations in Services Other than Broadcast) shall be submitted to assign voluntarily (as by, for example, contract or other agreement) or involuntarily (as by, for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment (or transfer of control), the applications should be filed within 10 days of the event causing the assignment (or transfer of control). FCC Form 702 shall also be used for non-substantial (*pro forma*) assignments. In addition, FCC Form 430 shall be submitted by the proposed assignee of a transmitting station unless the assignee has a current and substantially accurate report on file with the Commission.

(d) Transfer of control of corporation holding a license. FCC Form 704 (Application for Consent to Transfer of Control) shall be submitted in order to transfer voluntarily or involuntarily (*de jure* or *de facto*) control of a corporation holding any licenses. FCC Form 704 shall also be used for non-substantial (*pro forma*) transfers of control. In addition, FCC Form 430 shall be submitted by the proposed transferee of a transmitting station unless the transferee has a current and substantially accurate report on file with the Commission.

(e) Whenever a group of station licenses in the same radio service for the same class of facility licensed to the same entity is to be assigned or transferred to a single assignee or transferee, a single application may be filed to cover the entire group, if the application identifies in an exhibit each

station by call sign, station location and expiration date of license.

(f) Assignments and transfers of control shall be completed within 60 days from the date of authorization. The Commission shall be notified by letter of the date of consummation and the file numbers of the applications involved in the transaction.

§ 25.119 Application for special temporary authorization.

(a) In circumstances requiring immediate or temporary use of facilities, request may be made for special temporary authority to install and/or operate new or modified equipment. The request must contain the full particulars of the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein. No request for temporary authority will be considered unless it is received by the Commission at least 3 working days prior to the date of proposed construction or operation or, where an extension is sought, the expiration date of the existing temporary authorization. A request received within less than 3 working days may be accepted only upon due showing of extraordinary reasons for the delay in submitting the request which could not have been earlier foreseen by the applicant. A copy of the request for special temporary authority also shall be forwarded to the Commission's Laurel, Maryland Field Office.

(b) The Commission may grant a temporary authorization for a period not to exceed 180 days, with additional periods not exceeding 180 days, upon a finding that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of these temporary operations would seriously prejudice the public interest. Convenience to the applicant, such as marketing considerations of meeting scheduled customer in-service dates, will not be deemed sufficient for this purpose.

§ 25.120 License term and renewals.

(a) License term. Licenses for facilities governed by this Part will be issued for a period of 10 years, except developmental licenses which will be issued for period of 1 year.

(b) The Commission reserves the right to grant or renew station licenses for less than 10 years if, in its judgment, the public interest, convenience and necessity will be served by such action.

(c) For earth stations, the license term will be specified in the instrument of authorization.

(d) For space stations, the license term will begin at 3 a.m. EST on the date the licensee certifies to the Commission that the satellite has been successfully placed into orbit and that the operations of the satellite fully conform to the terms and conditions of the space station radio authorization.

(e) Renewal of License. Applications for renewals of earth station licenses must be submitted on FCC Form 405 (Application for Renewal of Radio Station License in Specified Services) no earlier than 90 days and no later than 30 days before the expiration date of the license.

EARTH STATIONS

§ 25.130 Filing requirements for transmitting earth stations.

(a) Applications for a new or modified transmitting earth station facility shall be submitted on FCC Form 493, accompanied by any required exhibits.

(b) A frequency coordination analysis in accordance with § 25.203 shall be provided for earth stations transmitting in frequency bands shared with equal rights between terrestrial and space services.

(c) In those cases where an applicant is filing a number of essentially similar applications, showings of a general nature applicable to all of the proposed stations may be submitted in the initial application and incorporated by reference in subsequent applications.

(d) Transmission of signals or programming to non-U.S. domestic satellites, or to foreign points by means of U.S. domestic satellites, may be subject to restrictions as a result of international agreements or treaties. The Commission will maintain public information on the status of any such agreements.

§ 25.131 Filing requirements for receive-only earth stations.

(a) Except as provided in paragraphs (b) and (j) of this section, applications for a license for a receive-only earth station shall be submitted on FCC Form 493, accompanied by any required exhibits.

(b) Except as provided in paragraph (j) of this section, receive-only earth stations in the domestic fixed-satellite service may be registered with the Commission in order to protect them from interference from terrestrial microwave stations in bands shared co-equally with the fixed service in accordance with the procedures of §§ 25.203 and 25.251-25.256.

(c) Licensing or registration of receive-only earth stations with the Commission confers no authority to receive and use signals or programming received from satellites. See section 705 of the Communications Act, 47 U.S.C. 605.

(d) Applications for registration shall be filed on FCC Form 493 accompanied by the coordination exhibit required by § 25.203, and any other required exhibits. Any application which is deficient or incomplete in any respect shall be immediately returned to the applicant without processing.

(e) Complete applications for registration will be placed on public notice for 30 days and automatically granted if no objection is submitted to the Commission and served on the applicant. Additional pleadings are authorized in accordance with § 1.45 of this chapter.

(f) The registration of a receive-only earth station results in the listing of an authorized frequency band at the location specified in the registration. Interference protection levels are those agreed to during coordination.

(g) Reception of signals or programming from non-U.S. domestic satellites may be subject to restrictions as a result of international agreements or treaties. The Commission will maintain public information on the status of any such agreements.

(h) Registration term: Registrations for receive-only earth stations governed by this section will be issued for a period of 10 years from the date on which the application was filed. Applications for renewals of registrations must be submitted on FCC Form 405 (Application for Renewal of Radio Station License in Specified Services) no earlier than 90 days and no later than 30 days before the expiration date of the registration.

(i) Applications for modification of license or registration of receive-only earth stations shall be made in conformance with § 25.117 of this part. Registrants are required to notify the Commission when a receive-only earth station is no longer operational or when it has not been used to provide any service during any 6 month period.

(j) Receive-only earth stations operating with:

- (1) INTELSAT space stations;
- (2) International space stations; or
- (3) U.S. domestic and non-U.S. space stations for reception of services from other countries;

Shall file an FCC Form 493 requesting a license for such station. Receive-only earth stations used to receive INTERNET I services from INTELSAT space stations need not file for licenses. See Deregulation of Receive-Only

Satellite Earth Stations Operating with the INTELSAT Global Communications Satellite System, Declaratory Ruling, RM No. 4845, FCC 86-214 [released May 19, 1986].

§ 25.132 [Reserved]

§ 25.133 Period of construction; certification of commencement of operation.

(a) Each license for an earth station governed by this part shall specify as a condition therein the period in which construction of facilities must be completed and station operation commenced. Construction of the earth station must be completed and the station must be brought into regular operation within 12 months from the date of the construction permit and/or license grant except as may be otherwise determined by the Commission for any particular application.

(b) Each license for a transmitting earth station included in this part shall also specify as a condition therein that upon the completion of construction, each licensee must file with the Commission a certification including the following information: The name of the licensee, file number of the application, call sign of the antenna, date of the license, a certification that the facility as authorized has been completed, that each antenna facility has been tested and is within 2 dB of the pattern specified in § 25.209, and that the station is operational including the date of commencement of service, and will remain operational during the license period unless the license is submitted for cancellation. For stations authorized under § 25.115(c) of this part (Large Networks of Small Antennas operating in the 12/14 GHz bands), a certificate must be filed when the network is put into operation.

(c) If the facility does not meet the technical parameters set forth in § 25.209, a request for a waiver must be submitted and approved by the Commission before operations may commence.

(d) Each receiving earth station licensed or registered pursuant to § 25.131 must be constructed and placed into service within 6 months after coordination has been completed. Each licensee or registrant must file with the Commission a certification that the facility is completed and operating as provided in paragraph (b) of this section, with the exception of certification of antenna patterns.

SPACE STATIONS

§ 25.140 Qualifications of domestic fixed-satellite space station licensees.

(a) New domestic fixed-satellites shall comply with the requirements established in Report and Order in CC Docket No. 81-704. The requirements for radio station applications for new domestic fixed-satellites are specified in appendix B to the Commission's 1983 Processing Order (93 FCC 2d 1260 (1983)). Applications must also meet the requirements in paragraphs (b) through (e) of this section. The Commission may require additional or different information in the case of any individual application. Applications will be unacceptable for filing and will be returned to the applicant if they do not meet the requirements referred to in this paragraph.

(b) Each applicant for a space station authorization in the domestic fixed-satellite service must demonstrate, on the basis of the documentation contained in its application, that it is legally, financially, technically, and otherwise qualified to proceed expeditiously with the construction, launch and/or operation of each proposed space station facility immediately upon grant of the requested authorization. Each applicant must provide the following information:

(1) The information specified in § 25.114.

(2) Financial qualifications should be demonstrated in the form specified below. Failure to make such a showing shall result in the dismissal of the application.

(3) An interference analysis to demonstrate the compatibility of its proposed system 2° from any authorized space station. Applicants should provide details of their proposed r.f. carriers which they believe should be taken into account in these analyses. At a minimum, the applicant must include, for each type of r.f. carrier, the link noise budget, modulation parameters, and overall like performance analysis. (See, e.g., appendices B and C to Licensing of Space Stations in the Domestic Fixed-Satellite Service, 48 FR 40233 (September 6, 1983).)

(c) Each application for authority to construct and/or to launch and operate a space station in this service shall include a detailed statement of estimated investment and operating costs for the expected lifetime of the facility, and shall demonstrate in accordance with paragraph (d) of this section the applicant's current financial ability to meet the:

(1) Estimated costs of proposed construction and/or launch, and any

other initial expenses for the space station(s); and

(2) Estimated operating expenses for one year after launch of the proposed space station(s).

(d) Each application for authority to construct and/or launch a space station shall demonstrate an applicant's current financial ability to meet the costs specified in paragraph (c) of this section by submitting the following financial information verified by affidavit:

(1) A balance sheet current for the latest fiscal year and documentation of any financial commitments reflected in the balance sheet (such as, for example, loan agreements and service contracts) together with an exhibit demonstrating that the applicant has current assets and operating income sufficient to satisfy the requirements of paragraph (c) of this section. If the applicant is owned by more than one corporate parent, it must submit evidence of a commitment to the proposed satellite program by management of the corporate parent upon whom it is relying for financial resources;

(2) If the submissions of paragraph (d)(1) of this section do not satisfy paragraph (c) of this section, the applicant shall submit additional information as listed below to satisfy paragraph (c) of this section.

(i) The terms of any fully negotiated loan or other form of credit arrangement intended to be used to finance the proposed construction, acquisition, or operation of the requested facilities including such information as the identity of the creditor (or creditors), the amount committed, letters of commitment, detailed terms of the transaction, including the details of any contingencies, and a statement that paragraph (e) of this section is complied with;

(ii) The terms of any fully negotiated sale or placement of any equity or other form of ownership interest, including the sale, or long-term lease for the lifetime of the satellite, of proposed satellite transponder capacity in the level of detail as specified in paragraph (d)(2)(i) of this section;

(iii) Any financing arrangements contingent on further performance by either party, such as marketing of satellite capacity or raising additional financing, will not satisfy the requirements of paragraph (c) of this section.

(3) Whatever other information or details the Commission may require with regard to a specific application or applicant;

(e) Any loan or other credit arrangement providing for a chattel mortgage or secured interest in any

proposed facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

(f) An applicant found to be qualified pursuant to paragraph (b) of this section may be initially assigned up to two orbital locations in each pair of frequency bands proposed.

Authorizations to construct ground spares are at the applicant's risk that launch authorization will not be granted by the Commission.

(g) Each applicant found to be qualified pursuant to paragraph (b) of this section may be assigned no more than one additional orbital location beyond its current authorizations in each frequency band in which it is authorize to operate, provided that its in-orbit satellites are essentially filled and that it has no more than two unused orbital locations for previously authorized but unlaunched satellites in that band.

(h) In the event that one or more applications satisfying the requirements of this section are ready for grant, any orbital location occupied by a satellite that is determined to be a part of a system that is not essentially filled may be cancelled and colocation of in-orbit satellites may be required. The Commission may take this action if, in so doing, it would allow the grant of pending applications that satisfy the requirements of this section. If a cancellation is made, the licensee will be afforded a period of 30 days to notify the Commission which of its assigned locations should be cancelled.

§ 25.141 Licensing provisions for the radiodetermination satellite service.

(a) Space station application requirements. Each application for a space station license in the radiodetermination satellite service shall describe in detail the proposed radiodetermination satellite system, setting forth all pertinent technical and operational aspects of the system, including its capability for providing and controlling radiodetermination service on a geographic basis, and the technical, legal and financial qualifications of the applicant. In particular, each application shall include the information specified in appendix B of Space Station Application Filing Procedures, 93 FCC 2d 1260, 1265 (1983), except that in lieu of demonstrating compliance with item I.I.F (two degree spacing), applicants are required to demonstrate compatibility with licensed radiodetermination

satellite systems. Applicants must also file information demonstrating compliance with all requirements of this section, specifically including information demonstrating how the applicant has complied or plans to comply with the requirements of paragraph (f) of this section.

(b) Space station application procedures. Each application for a space station in the radiodetermination satellite service shall be placed on public notice for 60 days, during which time interested parties may file comments and petitions related to the application. A 60 day cut-off period shall also be established for the filing of applications to be considered in conjunction with an original application.

(c) User transceivers. Individual user transceivers will not be licensed. Service vendors may file blanket applications for transceiver units using FCC Form 493 and specifying the number of units to be covered by the blanket license. FCC Form 430 should be submitted if not already on file in conjunction with other facilities licensed under this subpart. Each application must demonstrate that transceiver operations will not cause interference to other users of the spectrum.

(d) Permissible communications. Stations in this service are authorized to render radiodetermination service, and may not render other services except as ancillary to the radiodetermination service.

(e) Frequency allocation policies. Each radiodetermination satellite service licensee will be assigned the entire allocated frequency bands on a non-exclusive basis. Coding techniques and power limits as set forth in paragraph (f) of this section and orbital spacing shall be employed to avoid harmful interference with other radiodetermination satellite service systems.

(f) Radiodetermination satellite service. Licenses shall coordinate with other licensees to avoid harmful interference to other radiodetermination satellite systems through (1) power flux density limits; (2) use of pseudorandom-noise codes (for both the satellite-to-user link and for the user-to-satellite link); and (3) random access, time division multiplex techniques.

(g) License conditions. All authorizations in the radiodetermination satellite service shall be subject to the policies set forth in the Report and Order, including compliance with appendix D, and the Second Report and Order in General Docket Nos. 84-689 and 84-690 and to any policies and rules the Commission may adopt at the later date.

PROCESSING OF APPLICATIONS

§ 25.150 Receipt of applications.

Applications received by the Commission are given a file number and (domestic only) a unique station identifier for administrative convenience. Neither the assignment of a file number and/or other identifier nor the listing of the application on public notice as received for filing indicates that the application has been found acceptable for filing or precludes the subsequent return or dismissal of the application if it is found to be defective or not in accordance with the Commission's rules.

§ 25.151 Public notice period.

(a) At regular intervals, the Commission will issue public notices listing:

(1) The receipt of applications for new station authorizations;

(2) The receipt of applications for license or registration of receive-only earth stations;

(3) The receipt of applications for major modifications to station authorizations;

(4) The receipt of major amendments to pending applications;

(5) The receipt of applications to assign or transfer control of space station facilities, transmitting earth station facilities, or international receive-only earth station facilities;

(6) Significant Commission actions regarding applications;

(7) Information which the Commission in its discretion believes to be of public significance; and

(8) Special environmental considerations as required by part 1 of this chapter.

(b) Special public notices may also be issued at other times under special circumstances involving non-routine matters where speed is of the essence and efficiency of Commission process will be served thereby.

(c) A public notice will not normally be issued for receipt of any of the following applications:

(1) For authorization of a minor technical change in the facilities of an authorized station;

(2) For temporary authorization pursuant to § 25.119;

(3) For an authorization under any of the proviso clauses of section 308(a) of the Communications Act of 1934, as amended [47 U.S.C. 308(a)];

(4) For consent to an involuntary assignment or transfer of control of a transmitting earth station authorization; or

(5) For consent to an assignment or transfer of control of a transmitting

earth station authorization, where the assignment or transfer does not involve a substantial change in ownership or control; or

(6) For change in location of an earth station operating in the 4/6 GHz and 10.95-11.7 GHz bands by no more than 1" in latitude and/or longitude and for change in location of an earth station operating in the 12/14 GHz bands by no more than 10" in latitude and/or longitude.

(d) No application that has appeared on public notice will be granted until the expiration of a period of thirty days following the issuance of the public notice listing the application, or any major amendment thereto. Any comments or petitions must be delivered to the Commission by that date in accordance with § 25.154.

§ 25.152 Dismissal and return of applications.

(a) Any application may be dismissed without prejudice as a matter of right if the applicant requests its dismissal prior to final Commission action.

(b) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal will be without prejudice unless the application is mutually exclusive pursuant to § 25.155, in which case it will be dismissed with prejudice.

§ 25.153 Repetitious applications.

(a) Where an application has been denied or dismissed with prejudice, the Commission will not consider a like application involving service of the same kind to the same area by the same applicant, or by its successor or assignee, or on behalf of or for the benefit of any of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's action. The Commission may, for good cause shown, waive the requirements of this section.

(b) Where an appeal has been taken from the action of the Commission denying a particular application, another application for the same class of station and for the same area, in whole or in part, filed by the same applicant or by his successor or assignee, or on behalf of or for the benefit of the original parties in interest, will not be considered until the final disposition of the appeal.

§ 25.154 Opposition to applications and other pleadings.

(a) Petitions to deny, petitions for other forms of relief, and other objections or comments must:

(1) Identify the application or applications (including applicant's name, station location, Commission file numbers, and radio service involved) with which it is concerned;

(2) Be filed within thirty (30) days after the date of public notice announcing the acceptance for filing of the application or major amendment thereto (unless the Commission otherwise extends the filing deadline);

(3) Filed in accordance with the pleading limitations, periods and other applicable provisions of §§ 1.41 through 1.52 of this chapter;

(4) Contain specific allegations of fact (except for those of which official notice may be taken) to support the specific relief requested, which shall be supported by affidavit of a person or persons with personal knowledge thereof, and which shall be sufficient to demonstrate that the petitioner (or respondent) is a party of interest and that a grant of, or other Commission action regarding, the application would be prima facie inconsistent with the public interest; and

(5) Contain a certificate of service showing that it has been mailed to the applicant no later than the date the pleading is filed with the Commission.

(b) The Commission will classify as informal objections:

(1) Any pleading not filed in accordance with paragraph (a) of this section;

(2) Any pleading to which the thirty (30) day public notice period of § 25.151 does not apply; or

(3) Any objections to the grant of an application when the objections do not conform to either paragraph (a) of this section or to other Commission rules and requirements.

(c) Oppositions to petitions to deny an application or responses to comments and informal objections regarding an application may be filed within 10 days after the petition, comment, or objection is filed and must be in accordance with other applicable provisions of §§ 1.41 through 1.52 of this chapter.

(d) Reply comments by the party that filed the original petition may be filed with respect to pleadings filed pursuant to paragraph (c) of this section within 5 days after the time for filing oppositions has expired unless the Commission otherwise extends the filing deadline and must be in accordance with other applicable provisions of §§ 1.41 through 1.52 of this chapter.

§ 25.155 Mutually exclusive applications.

(a) The Commission will consider applications to be mutually exclusive if their conflicts are such that the grant of one application would effectively

preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more other applications.

(b) An application will be entitled to comparative consideration with one or more conflicting applications only if:

(1) The application is mutually exclusive with another application; and

(2) The application is received by the Commission in a condition acceptable for filing

(i) By the "cut-off" date specified in a public notice; or

(ii) If no "cut-off" date is specified, within 30 days after the date of the public notice listing the first of the conflicting applications as acceptable for filing.

§ 25.156 Consideration of applications.

(a) Applications for a radio station authorization, or for modification or renewal of an authorization, will be granted if, upon examination of the application, any pleadings or objections filed, and upon consideration of such other matters as it may officially notice, the Commission finds that the applicant is legally, technically, and otherwise qualified, that the proposed facilities and operations comply with all applicable rules, regulations, and policies, and that grant of the application will serve the public interest, convenience and necessity.

(b) Whenever the Commission grants any application in part, or subject to any terms or conditions other than those routinely applied to applications of the same type, the grant shall be considered final unless the Commission should revise its action (either by granting the application as originally requested, or by designating the application for hearing) in response to a petition for reconsideration which:

(1) Is filed by the applicant within thirty (30) days from the release date of the conditioned grant; and

(2) Rejects the grant as made and explains the reasons why the application should be granted as originally requested.

(c) Reconsideration or review of any final action taken by the Commission will be in accordance with subpart A of part 1 of this chapter.

FORFEITURE, TERMINATION, AND REINSTATEMENT OF STATION AUTHORIZATION

§ 25.160 Administrative sanctions.

(a) A forfeiture may be imposed for failure to operate in conformance with the Communications Act, license specifications, any conditions imposed on an authorization, or any of the

Commission's rules and regulations; or for failure to comply with Commission requests for information needed to complete international coordination or for failure to cooperate in Commission investigations with respect to international coordination.

(b) A forfeiture will be imposed and the station license may be terminated for the malicious transmissions of any signal that causes harmful interference with any other radio communications or signals.

(c) A station license may be revoked for any repeated and willful violation of the kind set forth in paragraphs (a) and (b) of this section.

(d) The sanctions specified in paragraphs (a), (b), and (c) of this section will be imposed only after the licensee has been provided an opportunity to be heard pursuant to titles III and V of the Communications Act of 1934, as amended.

(e) For purposes of this section, the term "repeated" and "willful" are defined as set out in section 312(f) of the Communications Act, 47 U.S.C. 312(f).

§ 25.161 Automatic termination of station authorization.

A station authorization shall be automatically terminated in whole or in part without further notice to the licensee upon:

(a) The expiration of the required date of completion of construction or other required action specified in the authorization, or after any additional time authorized by the Commission, if a certification of completion of the required action has not been filed with the Commission unless a request for an extension of time has been filed with the Commission but has not been acted on;

(b) The expiration of the license period, unless an application for renewal of the license has been filed with the Commission pursuant to § 25.120(e); or

(c) The removal or modification of the facilities which renders the station not operational for more than 90 days, unless specific authority is requested.

§ 25.162 Cause for termination of interference protection.

The protection from interference afforded by the registration of a receiving earth station shall be automatically terminated if:

(a) The request for registration is not submitted to the Commission within 3 months of the completion of the frequency coordination process, except as provided for in § 25.203;

(b) The receiving earth station is not constructed and placed into service

within 6 months after completion of coordination;

(c) The Commission finds that the station has been used less than 50% of the time during any 12 month period;

(d) The Commission finds that the station has been used for an unlawful purpose or otherwise in violation of the Commission's rules, regulations or policies;

(e) The Commission finds that the actual use of the facility is inconsistent with what was set forth in the registrant's application; or

(f) The Commission finds that the frequency coordination exhibit, upon which the granted registration is based, is incomplete or does not conform with established coordination procedures.

§ 25.163 Reinstatement.

(a) A station authorization terminated in whole or in part under the provisions of § 25.161 may be reinstated if the Commission, in its discretion, determines that reinstatement would best serve the public interest, convenience and necessity. Petitions for reinstatement will be considered only if:

(1) The petition is filed within 30 days after the expiration date set forth in § 25.161(a) or § 25.161(b), whichever is applicable;

(2) The petition explains the failure to file a timely notification or renewal application; and

(3) The petition sets forth with specificity the procedures which have been established to insure timely filings in the future.

(b) A special temporary authorization shall automatically terminate upon the expiration date specified therein, or upon failure of the grantee to comply with any special terms or conditions set forth in the authorization. Temporary operation may be extended beyond the termination date only upon application to the Commission.

8. Section 25.202(c) is removed and §§ 25.202 (d) through (g) are redesignated as §§ 25.202 (c) through (f), respectively.

9. The heading of subpart E is revised to read as follows:

Subpart E—Developmental Operations

10. Section 25.390 is redesignated as § 25.300 and paragraphs (c) and (g) are removed and paragraphs (d) through (o) are redesignated as (c) through (m) respectively.

11. Newly redesignated § 25.300(c) is revised to read as follows:

§ 25.300 Developmental operation.

(c) *Forms to be used:* A separate application for construction permit shall

be submitted on FCC Form 493 for each earth station. No form is used for space stations. See § 25.114 for information to be supplied in space station applications.

12. In addition to the amendments set forth above, in newly redesignated § 25.300 remove the words "Communication-Satellite Service" and add, in their place, the words "space radiocommunication service" in the following places: Newly redesignated § 25.300 (a), (b), (d), and (f).

§ 25.308 of Subpart C (Redesignated as § 25.308 of Subpart E)

13. Section 25.308 of subpart C is redesignated as § 25.308 of subpart E.

§§ 25.391 & 25.392 (Removed)

14. Sections 25.391 and 25.392 are removed.

Donna R. Searcy,
Secretary.

Appendix

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

Instructions for Completion of FCC Form 493—Application for Earth Station Authorization or for Modification of Station License

General Information and Instructions

A. FCC Form 493 is to be used to apply for a license to construct and/or operate a transmit/receive earth station, a transmit-only earth station; to register a domestic receive-only earth station; to license an international receive-only earth station; or to modify a granted license or registration. These licensing activities are restricted to the following satellite services:

Domestic Fixed-Satellite Service
International Fixed-Satellite Service
Radiodetermination-Satellite Service
Mobile-Satellite Service

Applicable Rules and Regulations

B. Before this application is prepared, the applicant should refer to part 25 of the Rules and Regulations of the Commission, (Title 47, Code of Federal Regulations (CFR), part 25) copies of which may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Part 25 may require information to be filed with an application in addition to that specified in the application form. Applicant should make every effort to file a complete application in compliance with the Rules. Failure to do so can result in rejection or return of the application or a delay in the processing of the application. Use additional sheets only where necessary. All additional sheets must contain the applicant's name and the number of question to which it responds.

Number of Copies

C. All entries on the form shall be typed or legibly printed in ink. An original and two copies of the application must be submitted.

Applicants filing for a 12/14 GHz VSAT Network should submit an original and five copies of each application.

Fees

D. A processing fee is required with this application. Please refer to either 47 CFR 1.1105, the Common Carrier Fee Filing Guide, or call (202) 632-FEES for appropriate fee. DO NOT SEND CASH. Payment may be made by check, bank draft, or single money order payable to: Federal Communications Commission.

Submission of Applications

(E) Each application should be assembled with a Fee Processing Data Sheet (FCC 155 Form) stapled to the top of the application. Place the check on top of the Fee Processing Data Sheet. Please do not staple the check to the application. Required copies of applications should be clearly identified as "duplicate copy" and placed behind the original package. A copy of an application submitted for receipt purposes only should be placed at the bottom of the submission. Extraneous material and extra copies should be avoided at all times. Failure to abide by these instructions will delay the processing of your submission.

Addresses for Mail-In Applications

(F)(1) Applications for Domestic Earth Stations are to be mailed to: Federal Communications Commission, Common Carrier Domestic Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.

(2) Applications for International Earth Stations are to be mailed to: Federal Communications Commission, Common Carrier International, P.O. Box 358115, Pittsburgh, PA 15251-5115.

Receive-Only Earth Station Registration

G. Receive-only earth stations may be registered with the Commission in order to protect them from interference from terrestrial microwave stations in the 4 GHz shared band pursuant to 47 CFR 25.131 and 25.133. Registration results in the listing of an earth station at a specified location with interference levels agreed to during coordination. We will not accept applications for registration of receive-only earth stations in the 12 GHz band because downlinks in the fixed-satellite service are given primary allocation status in that band. Pursuant to 47 CFR 25.133(d), each registrant for a receive-only earth station must file a certificate that its facility is constructed and operating. Receive-only earth stations operating with INTELSAT space stations, international space stations or U.S. domestic and non-U.S. space stations for reception of services from other countries are required to be licensed except that earth stations used to receive INTERNET I services from INTELSAT space stations need not file for licenses.

Transmit/Receive Earth Station Applications

H. Pursuant to 47 CFR 25.113, construction permits are no longer required for certain transmit/receive earth stations. These include domestic satellite earth stations, international satellite earth stations operating with INTELSAT and INMARSAT and earth

stations operating with international space stations licensed pursuant to Establishing of Satellite Systems Providing International Communications, 50 FR 42266 (October 18, 1985), 101 FCC 2d 1201 (1985). A construction permit is required for all other earth station facilities. Construction of stations prior to the grant of a license is at the applicant's own risk. Pursuant to 47 CFR 25.133(b), each licensee for a transmitting station shall file a certification that its facility is constructed and in operation.

Notice to Individuals Required by the Privacy Act of 1974 and the Paperwork Reduction Act of 1980

I. The information requested by this form will be used by Federal Communications Commission staff to determine eligibility for issuing authorizations in the use of frequency spectrum and to effect the provisions of regulatory responsibilities rendered the Commission by the Communications Act of 1934, as amended. Response to the information requested is required to obtain the requested authorization. Information requested by FCC 493 will be available to the public.

Public reporting burden for this collection of information is estimated to average 24 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 Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to Office of Management and Budget, Paperwork Reduction Project (3060-0000), Washington, DC 20503.

BILLING CODE 6712-01-M

FCC 493 March 1991	FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C. 20554	Approved By OMB 3060-0000 Expires 00/00/00	FCC USE ONLY File Number Call Sign
APPLICATION FOR EARTH STATION AUTHORIZATION OR FOR MODIFICATION OF STATION LICENSE Read Instructions Before Completing and For Information Regarding Public Burden Estimate			
1. Name of Applicant (must be same as reported on FCC 430 Form, Licensee Qualification Report)			
Mailing Street Address or P.O. Box, City, State and ZIP Code			(Area Code) Telephone Number
2. Contact Representative. Provide the following if the person to contact is other than applicant.			
Name			
Mailing Street Address or P.O. Box, City, State and ZIP Code			(Area Code) Telephone Number
3. Class of Station a <input type="checkbox"/> Fixed Earth Station b <input type="checkbox"/> Temporary Fixed Earth Station c <input type="checkbox"/> 12/14 GHz VSAT Network d <input type="checkbox"/> Mobile Earth Station e <input type="checkbox"/> Other (Specify):	4. Nature of Service a <input type="checkbox"/> Domestic Fixed-Satellite b <input type="checkbox"/> International Fixed-Satellite c <input type="checkbox"/> Radiodetermination-Satellite d <input type="checkbox"/> Mobile-Satellite e <input type="checkbox"/> Other (Specify):	5. Is developmental operation requested? <input type="checkbox"/> YES <input type="checkbox"/> NO 6(a) Type of Request 1 <input type="checkbox"/> License for transmit/receive earth station 2 <input type="checkbox"/> License for transmit-only earth station 3 <input type="checkbox"/> Registration or License for receive-only earth station 4 <input type="checkbox"/> Modification of License/Registration (Complete Items 7(a)-(c)) 6(b) Number of Stations: ►	
7(a) Purpose of Proposed Modification 1 <input type="checkbox"/> Change in emissions 2 <input type="checkbox"/> Change in antenna 3 <input type="checkbox"/> Change in location 4 <input type="checkbox"/> Change in assigned frequencies			5 <input type="checkbox"/> Change in points of communications 6 <input type="checkbox"/> Change in range of satellite arc 7 <input type="checkbox"/> Other (Specify):
8. Location (Number, Street, City, County, State and ZIP Code) and Telephone Number of Earth Station Site. (If temporary fixed or VSAT Network license, specify area of operation and point of contact - name and telephone number)			(b) Call Sign of Station (c) File No. of Current Authorization
9. Latitude and Longitude Deg. - Min. - Sec. Lat. _____ North Long. _____ West			10. Site Elevation (AMSL) feet _____ meters _____
11. Points of Communications (For satellites operating within the frequency bands and geostationary arc coordinated for these facilities, in most cases, the entry "ALSAT" is sufficient for Domestic Fixed-Satellite Services; for all other services each satellite must be listed).			

[illegible]

(a) No. of HPA's	(b) Manufacturer	(c) Model No.	(d) Maximum Power Output (watts)

Line No.	(a) Quantity	(b) TT&C*	(c) Manufacturer	(d) Model	(e) Size (meters)	(f) Type of Feed	(g) Gain Transmit and/or Receive (____dBi at ____ GHz)
1							
2							
3							
4							

Line No.	(h) Maximum Antenna Height				(i) Building Height**		(j) Maximum Antenna Height**	
	Above Ground Level		Above Mean Sea Level		Above Ground Level		Above Rooftop	
1	feet	meters	feet	meters	feet	meters	feet	meters
2	feet	meters	feet	meters	feet	meters	feet	meters
3	feet	meters	feet	meters	feet	meters	feet	meters
4	feet	meters	feet	meters	feet	meters	feet	meters

[illegible]

*Check only for antennas used for satellite Telemetry, Tracking and Control (TT&C).

****Attach sketch of site or exemption. See 47 CFR Part 17.**

Place an "X" in the appropriate column.		YES	NO
18. Does the proposed antenna(s) comply with the antenna gain patterns specified in Section 25.209(a) and (b) as demonstrated by the manufacturer's qualification measurements? Attach manufacturer's verification that the antenna complies with these patterns if not on file.			
19. Is the facility to be operated by remote control? If "YES," provide the location (street, city, county, state, zip code) and telephone number of the control point.			
20. Small Antenna Impact			
(a) Will an antenna less than 9 meters in diameter be used at this site to transmit to a fixed-satellite below 7075 MHz?			
(b) Will an antenna less than 5 meters in diameter be used at this site to transmit to a fixed-satellite from 7075 MHz to 14.5 GHz?			
(c) If the answer to (a) or (b) above is "YES", answer all of the following questions that apply to the proposed earth station facilities.			
(i) Transmissions in the band 5925-7075 MHz will be limited to a maximum bandwidth of _____ MHz and maximum EIRP density of _____ dBW/4kHz.			
(ii) Transmissions in the band 7075 MHz to 14.5 GHz will be limited to a maximum bandwidth of _____ MHz and maximum EIRP density of _____ dBW/4kHz.			
(iii) Will operation of this facility be governed by a previous small antenna authorization? If "YES", provide cite: _____ If "NO", attach small antenna analysis.			
21. Is the facility to be used to provide Radiodetermination-Satellite Service (RDSS) in the frequencies allocated for RDSS? If "YES", attach exhibit demonstrating that operations are compatible with other operations.			
22. Is the facility to be used to provide Mobile-Satellite Service (MSS) in the frequencies allocated for MSS? If "YES", attach exhibit demonstrating that facility is consistent with operations in these frequencies.			
23. Frequency Coordination			
(a) Is frequency coordination required? If "YES", attach a frequency coordination report.			
(b) Is coordination with another country required? If "YES", attach name of country and plot of coordination contours.			
24. FAA Notification - (See 47 CFR Part 17) Is FAA notification required for any of the new or modified structures proposed in this application? If "YES", attach a copy of FCC 854 form and/or the FAA's study regarding the potential hazard to aviation of the structure.			
25. Environmental Impact Would a commission grant of this application be an action which may have a significant environmental effect as defined by Section 1.1307 of the Commission's Rules? If "YES", submit the statement as required by Sections 1.1308 and 1.1311.			
26. Description. (Summarize the nature of the application and the services to be provided).			

Place an "X" in the appropriate column.		YES	NO
27. Rule Waivers and Exceptions			
Is this application inconsistent with any of the Commission's Rules?			
If "YES", attach a copy of requests for waivers or exceptions with supporting documents.			
28. Eligibility			
(a) Is the applicant a foreign government or a representative thereof?			
(b) Does the applicant meet the requirements of Section 310(b)(1), (2) and (3) of the Communications Act (47 USC 310(b)(1), (2) and (3))?			
(c) Does the applicant meet the requirements of Section 310(b)(4) of the Communications Act (47 USC 310(b)(4))?			
If "NO", attach an exhibit explaining why grant is in the public interest.			
29. Will the station be used to provide common carrier services?			
30. Will the station be used for developmental purposes?			
If "YES", attach an exhibit detailing the developmental plan.			
31. If transmitting antenna, will individual applicant, partner (in case of partnership) or full-time manager (in case of corporation) actively participate in the day-to-day management and operation of proposed facility?			
If "NO", submit an exhibit providing an explanation, and including a demonstration of how control over the facility will be retained.			
32. For transmitting antennas that provide domestic or international service, attach FCC 430 form, or if a complete and accurate FCC 430 form is already on file with the FCC give date filed:			
Is FCC 430 form attached?			

33. Exhibits. Identify the exhibits that are attached to this application.

Exhibit No.	
1	
2	
3	
4	
5	

34. Certification of Person Responsible for Preparing Engineering Information in this Application. I hereby certify that I am the technically qualified person responsible for preparation of the engineering information contained in this application, that I am familiar with Part 25 of the Commission's Rules, that I have either prepared or reviewed the engineering information submitted in this application, and that it is complete and accurate to the best of my knowledge.

Date	Typed Name of Person Signing	Signature

35. Certification of Applicant. The applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests a construction permit, if necessary, in accordance with this application. All statements made in the attached exhibits are a material part hereof and are incorporated herein as if set out in full in this application. The undersigned, individually and for the applicant, hereby certifies that the statements made in this application are true, complete and correct to the best of the signer's knowledge and belief, and are made in good faith.

Date	Typed Name of Person Signing	Signature

WILLFUL FALSE STATEMENTS MADE ON THIS APPLICATION ARE PUNISHABLE BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001), and/or REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), and/or FORFEITURE (U.S. Code, Title 47, Section 503).

Notice to Individuals Required by the Privacy Act of 1974 and the Paperwork Reduction Act of 1980
The information requested by this form will be used by Federal Communications Commission staff to determine eligibility for issuing authorizations in the use of frequency spectrum and to effect the provisions of regulatory responsibilities rendered the Commission by the Communications Act of 1934, as amended. Response to the information requested is required to obtain the requested authorization. Information requested by this form will be available to the public. Public reporting burden for this collection of information is estimated to average 24 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 Federal Communications Commission, Office of Managing Director, Washington, D.C. 20554, and to Office of Management and Budget, Paperwork Reduction Project (3060-0000), Washington, D.C. 20503.

47 CFR Part 73

[MM Docket No. 90-128; RM-7202]

Radio Broadcasting Services; Union City, TN**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: The Commission, at the request of Twin States Broadcasting, allots Channel 289A to Union City, Tennessee. See 55 FR 10791, March 23, 1990. Channel 289A can be allotted to Union City, Tennessee, in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.7 kilometers (6.6 miles) north to avoid short-spacings to Station WAKQ(FM), Channel 288A, Paris, Tennessee, and Station WGXK(FM), Channel 290C, Memphis, Tennessee. The coordinates for the allotment of Channel 289A at Union City are North Latitude 36-31-01 and West Longitude 89-05-21. With this action, this proceeding is terminated.

DATES: July 8, 1991. The window period for filing applications will open on July 9, 1991, and close on August 8, 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. 90-128, adopted May 9, 1991, and released May 22, 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.

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 adding Channel 289A at Union City.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 91-12542 Filed 5-24-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE**48 CFR Parts 243, 249, and 252****Department of Defense Federal Acquisition Regulation Supplement; Contract Modifications and Termination of Contracts****AGENCY:** Department of Defense (DOD).**ACTION:** Interim rule with request for comments.

SUMMARY: The Defense Acquisition Regulations (DAR) Council has issued an interim rule to implement section 4201 of the Fiscal Year 1991 DoD Authorization Act (Pub. L. 101-510) which requires the Secretary of Defense to notify the Secretary of Labor if a modification or termination of a major defense contract or subcontract will have a substantial impact on employment.

DATES: Comments on the interim rule should be submitted in writing at the address shown below on or before June 27, 1991, to be considered in the formulation of the final rule. Please cite DAR Case 90-339 in all correspondence.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, ATTN: Mr. Eric Mens, Procurement Analyst, DAR Council, OUSD(A)DP(DARS), room 3D139, The Pentagon, Washington, DC 20301-3000.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Mens, Procurement Analyst, DAR Council, (703) 697-7266.

SUPPLEMENTARY INFORMATION:**A. Background**

Section 4201 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101-510, Division D, title XLII; Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990) requires the Secretary of Defense to notify the Department of Labor if a modification or termination of a major defense contract or subcontract will have a substantial impact on employment. Public Law 101-510 was effective upon enactment (November 5, 1990).

Under section 4003 of the Authorization Act, a major defense contract means a contract of \$5 million or more, and a major defense subcontract means a subcontract of

\$500,000 or more. Section 4003 also establishes criteria to determine if there is "a substantial impact on employment." The statute reflects Congressional concern about the economic impact on communities, businesses, and employees affected by "(1) the annual budget of the President submitted to Congress . . . and any longer-term guidance document of the Secretary of Defense; (2) the public announcement of the realignment or closure of a military installation or defense facility; or (3) the cancellation or curtailment of a major defense contract" (Sec. 4101(a) of Public Law 101-510). Under section 4103 of the Act, any determination that a community is "substantially and seriously affected" by a contract modification or termination may qualify that community for economic assistance under title IX of the Public Works and Economic Development Act of 1965.

In order to comply with the requirement to provide prompt notice to the Secretary of Labor, the Department of Defense needs to know if a proposed contract modification or termination will have a substantial impact on employment, as defined in the Act. This information can only be provided by the contractor or subcontractor affected by the modification or termination.

The interim rule provides that, prior to modification or termination of certain defense contracts and subcontracts, contractors must notify contracting officers if the proposed modification or termination will have a substantial impact on employment. This notification is required by a new clause 252.249-7001, Notification of Substantial Impact on Employment. Contracting officers may either modify existing contracts over \$5 million to include the clause or tailor any termination notices that are subsequently issued against these contracts to request the contractor to provide a statement of impact on employment. The interim rule establishes new coverage at 243.107 (S-70), 249.102(a)(5), 249.7003, and a new clause at 252.249-7001.

B. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this regulation as an interim rule. This action is necessary because Public Law 101-510 was effective upon enactment (November 5, 1990). Moreover, the identification and curtailment of programs and contracts is currently underway as a result of budget cutbacks and anticipated base closings and realignments.

C. Regulatory Flexibility Act

The proposed rule may 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 notification requirement applies to all businesses, large and small, who contract with DoD. An initial Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration. The IRFA states that it is impossible to accurately estimate the number of small businesses that may be impacted because it is impossible to estimate the number of small entities who currently hold, or prospectively will hold, major defense contracts or subcontracts and who may experience a substantial impact on employment when contracts or subcontracts are modified or terminated as a result of budgetary cutbacks, realignments or closing of bases, or cancellation of contracts.

A copy of the IRFA may be obtained from: Defense Acquisition Regulations Council, ATTN: Mr. Eric Mens, Procurement Analyst, DAR Council, OUSD(A)DP(DARS), room 3D139, The Pentagon, Washington, DC 20301-3000. Comments are invited. Comments from small entities concerning the affected DFARS Subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and must cite DAR Case 90-610 in all correspondence.

D. Paperwork Reduction Act

The interim rule imposes a new reporting requirement which requires the approval of OMB under 44 U.S.C. 3501, *et seq.* DoD is requesting OMB emergency review and approval for this new information collection requirement.

List of Subjects in 48 CFR Parts 243, 249, and 252

Government procurement.

Nancy L. Ladd,

Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 243, 249, and 252 are amended as follows:

1. The authority citation for 48 CFR parts 243, 249, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

PART 243—CONTRACT MODIFICATIONS

2. Section 243.107 is added to read as follows:

243.107 Contract clause.

(S-70) The Secretary of Defense is required to notify the Secretary of Labor if the modification or termination of a major defense contract or subcontract will have a substantial impact on employment. See 249.7003(c) for the prescribed contract clause.

PART 249—TERMINATION OF CONTRACTS

3. Section 249.102 is revised to read as follows:

249.102 Notice of termination.

(a) *General.* See 243.301 for use of the Standard Form 30 (SF 30). Amendment of Solicitation/Modification of Contract, in providing notice of termination and amendment of the termination notice.

(5) Include a statement that, if the termination will have a substantial impact on employment, as defined in the clause at 252.249-7001, Notification of Substantial Impact on Employment, the contractor must promptly provide the required notice to the contracting officer.

4. Section 249.7003 is redesignated as 249.7004 and a new section 249.7003 is added to read as follows:

249.7003 Contract modifications and terminations having a substantial impact on employment.

(a) Section 4201(a)(1)(B) of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101-510, Division D, title XLII; Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990), requires the Secretary of Defense to notify the Secretary of Labor if a modification or termination of a major defense contract or subcontract will have a substantial impact on employment, as defined in the clause at 252.249-7001, Notification of Substantial Impact on Employment.

(b) When a contractor provides the notice required under the clause at 252.249-7001, the head of the contracting activity shall notify the Office of Economic Adjustment, Assistant Secretary of Defense (Force Management and Personnel), in accordance with department/agency procedures.

(c) Use the clause at 252.249-7001, Notification of Substantial Impact on Employment, in all contracts of \$5 million or more and all contracts with subcontracts of \$500,000 or more.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.249-7001 is added to read as follows:

252.249-7001 Notification of substantial impact on employment.

As prescribed in 243.107(S-70) and 249.7003(c), use the following clause:

Notification of Substantial Impact on Employment (May 1991)

(a) Definitions.

(1) "Major defense contract or subcontract" means—

(i) All prime contracts of \$5 million or more; and

(ii) All subcontracts, awarded under the prime, of \$500,000 or more.

(2) "Substantial impact on employment" means—

(i) A reduction of—

(A) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area (MSA) or similar area. MSAs are identified FIPS Publication 8-5, Metropolitan Statistical Areas, which is available from the U.S. Department of Commerce, National Technical Information Service, Springfield, VA 22161, Tel. (703) 487-4650. Telephone inquiries concerning MSAs may also be directed to the Bureau of the Census, Population Division, Population Distribution Branch, Washington, DC, Tel. (301) 763-5158;

(B) 1,000 or more employee positions, in the case of a labor market area outside an MSA, or

(C) 1 percent of the total number of civilian jobs in that area; or

(ii) A reduction, or the threat of a reduction, of—

(A) 25 percent or more in sales or production of the contractor or subcontractor; or

(B) 80 percent or more of the workforce of the contractor or subcontractor in any division of such contractor or such subcontractor or at any plant or other facility of such contractor or subcontractor; or

(iii) Any group of 100 or more workers at a defense facility who are, or who are threatened to become, eligible to participate in the Defense Conversion Adjustment Program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662-1662c, as amended).

(b) This clause applies only if a modification or termination of a major defense contract or subcontract will have a substantial impact on employment.

(c) The Contractor shall promptly notify the Contracting Officer if the proposed modification or termination of this contract or a major defense subcontract under this contract will have a substantial impact on employment.

(d) The Contractor shall include the substance of this clause in all

subcontracts of \$500,000 or more under this contract.

(End of Clause)

[FR Doc. 91-12459 Filed 5-24-91; 8:45 am]

BILLING CODE 3610-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 70355-7127]

Atlantic Tuna Fisheries

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

ACTION: Notice of closure.

SUMMARY: NMFS issues this notice to close the fishery for Atlantic bluefin tuna conducted by longline vessels permitted in the Incidental Catch category and operating in all parts of the Regulatory Area. Closure of this fishery is necessary because the total annual quota of 145 short tons (131.5 mt) of Atlantic bluefin tuna allocated for this category has been attained. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATE: The closure is effective 0001 hours local time May 30, 1991, through December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, 508-281-9324.

SUPPLEMENTARY INFORMATION:

Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the Federal Register on October 25, 1985 (50 FR 43396).

Section 285.22(f)(1) of the regulations at 50 CFR part 285 provides for an annual quota of 145 st (132 mt) of Atlantic bluefin tuna to be harvested from the Regulatory Area by longline vessels permitted in the Incidental Catch category. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota

when the catch of tuna equals the quota established under § 285.22. The Assistant Administrator has determined, based on the reported catch, that the annual quota of Atlantic bluefin tuna for longline vessels fishing in the Regulatory Area will be attained by the effective date of this notice. Fishing for, and retention of, any Atlantic bluefin tuna harvested under § 285.22(f)(1) must cease at 0001 local time on May 30, 1991.

Other Matters

Notice of this action will be mailed to all Atlantic bluefin tuna dealers and to vessel owners permitted in the Incidental Catch category. This action is taken under the authority of 50 CFR 285.20, and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Authority: 16 U.S.C. 971 *et seq.*

Dated: May 22, 1991.

David S. Crestin,

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

[FR Doc. 91-12499 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 56, No. 102

Tuesday, May 28, 1991

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-89-210]

Green Corn; Grade Standards; Reopening and Extension of Comment Period on Proposed Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening and extension of the comment period.

SUMMARY: Notice is hereby given that the time period for filing comments is reopened and extended on the proposed rule published in the April 5, 1991, issue of the *Federal Register* (56 FR 14027) for U.S. Standards for Grades of Green Corn. The comment period is reopened and extended until June 27, 1991.

DATES: Comments must be postmarked or courier dated on or before June 27, 1991.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 2056 South Building, Washington, DC 20090-6456. Such comments should reference the docket number and the date and page numbers of the *Federal Register* and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Marlene M. Betts, at above address or call (202) 447-2188.

SUPPLEMENTARY INFORMATION: The proposed rule to revise the U.S. Standards for Grades of Green Corn was issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et. seq.) and was published on April 5, 1991, in the *Federal Register* (56 FR 14027).

Comments were to be postmarked or courier dated on or before May 6, 1991. The proposal included establishing two new grades to accommodate small, consumer size packages, as well as revising and updating the amount of mechanical damage, and revising and adding definitions and changing the format in order to bring the standard into conformity with current harvesting and marketing practices. The U.S. Department of Agriculture has received a request from a grower/packer organization of sweet corn to extend the comment period to provide more time for interested persons to analyze the proposed rule and prepare comments. Reopening and extending the comment period will provide such interested persons more time to review this proposed rule and submit written views and information pertinent to the proposed changes. Accordingly, the comment period is reopened and extended to June 27, 1991.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

Authority: Secs. 203, 205, 60 Stat. 1087 as amended, 1090 as amended; 7 U.S.C. 1622, 1624, unless otherwise noted.

Dated: May 22, 1991.

Daniel D. Haley,
Administrator.

[FR Doc. 91-12497 Filed 5-24-91; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Parts 210, 215, 220, and 245

National School Lunch Program, Special Milk Program, School Breakfast Program, and Determination of Eligibility for Free and Reduced Price Meals and Free Milk in Schools; State Agency-School Food Authority/Child Care Institution Agreements and Direct Certification

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the regulations for the National School Lunch Program, Special Milk Program, and School Breakfast Program to make the annually executed State agency-

school food authority and State agency-child care institution agreement to operate these programs a permanent document to be amended as necessary. This rule also proposes to amend the regulations governing the determination of eligibility for free and reduced price benefits to (1) increase the number of provisions required in a school food authority's free and reduced price policy statement to ensure that households receive adequate information about the programs and (2) make most of the provisions in the policy statement permanent. These amendments would also apply to the policy statement for child care institutions participating in the Special Milk Program. The school food authority or child care institution would be able to amend its policy statement as necessary. State agency approval would continue to be necessary for any amendments to an approved policy statement. Under this proposal, the only portions of the policy statement that would be required to be submitted annually to the State agency for approval are the public release, the notice or letter to households, the application form and any other documents or provisions that contain the eligibility criteria for free and reduced price benefits. School food authorities electing to use the State agency prototype materials would not be required to submit these documents. Additionally, this rule proposes to allow school food authorities to certify children as eligible for free meals or free milk without further application by directly communicating with the appropriate State or local agency to obtain documentation that the child is a member of a household currently certified to receive food stamps or AFDC. School food authorities that implement this provision would be required to notify these households that their children are eligible for free meals or free milk, as appropriate, and give households the opportunity to decline these benefits. This proposed rule affects State agencies, participating school food authorities, and households. These proposed amendments are in response to certain provisions in the Child Nutrition and WIC Reauthorization Act of 1989, Public Law 101-147, and are intended to reduce paperwork and to facilitate eligibility determinations for free and reduced meals or free milk.

DATES: To be assured of consideration, comments must be postmarked on or before July 29, 1991.

ADDRESSES: Comments should be sent to Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, room 1007, Alexandria, Virginia 22302. Comments in response to this rule may be inspected at the above address during normal business hours—8:30 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eadie or Mr. Charles Heise at the above address or by phone at (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been reviewed by the Assistant Secretary for Food and Consumer Services under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of \$100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Furthermore, it will not have significant adverse effects on competition,

employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant adverse economic impact on a substantial number of small entities.

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recordkeeping burdens. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: State Agency-School Food Authority/Child Care Institution Agreements and Direct Certification.

Description: This proposed rule would reduce the reporting burdens associated

with the free and reduced price policy statement. However, there would be a slight increase in burden for this activity in the initial year of implementation. The increase has not been incorporated in the estimated burden since the total proposed annual increase in burden hours in the year of implementation of the revised policy statement requirements would not result in a significant change in burden. Several existing activities have been incorporated into this rule. They are not identified in the estimated burdens listed below, since there are no or nonsignificant changes in burden hours for these activities. This rule would delete three existing reporting requirements, the State agency-school food authority/child care institution agreements. However, a new burden, direct certification, is proposed as optional. If implemented, direct certification would reduce two existing burdens, completion of the application by households and application review and approval by school officials. The existing information collections under parts 210, 215, 220, and 245 have been approved under OMB Nos. 0584-006, 0584-005, 0584-0012, and 0584-0026, respectively.

Description of Respondent: State agencies, school food authorities, child care institutions, and households.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
7 CFR 210.9(b)				
Existing	19,560	1	.25	4,890
Proposed	XXX	XXX	XXX	XXX
7 CFR 215.7(b)				
Existing	9,670	1	.5	4,836
Proposed	XXX	XXX	XXX	XXX
7 CFR 220.7(e)				
Existing	3,800	1	.583	2,215
Proposed	XXX	XXX	XXX	XXX
7 CFR 245.6(a)				
Existing	5,095,024	1	.07	356,652
Proposed	2,547,512	1	.07	178,326
7 CFR 245.6(b)				
Existing	XXX	X	XXX	XXX
Proposed	10,600	1	.08	848
7 CFR 245.6(c)				
Existing	91,947	55	.052	262,968
Proposed	91,947	27.5	.052	131,484
7 CFR 245.6(c)(1)				
Existing	XXX	XXX	XXX	XXX
Proposed	10,600	120	.08	101,760
7 CFR 245.10(a)-(b)				
Existing	21,201	1	.5	10,601
Proposed	21,201	1	(¹)	(¹)
Total existing burden hours: + 642,162				
Total proposed burden hours: + 412,418				
Total difference: - 229,744				

¹ Negligible.

As required by section 3504(h) of the Paperwork Reduction Act of 1980, FNS has submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments regarding this burden estimate or any aspects of these information collection requirements, including suggestions for reducing the burdens, should direct them to the Policy and Program Development Branch, Child Nutrition Division, (address above), and to the Office of Information and Regulatory Affairs, OMB room 3208, New Executive Office Building, Washington, DC 20503, Attn: Laura Oliven, Desk Officer for FNS.

This proposed rule affects the School Breakfast Program, National School Lunch Program and Special Milk Program, which are listed in the Catalog of Federal Domestic Assistance under Nos. 10.553, 10.555, and 10.556, respectively. These programs are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983.)

Background

Sections 201, 202, 211, and 212 of Public Law 101-147, enacted on November 10, 1989, amended the National School Lunch Act and Child Nutrition Act, in part, as follows: (1) The agreement between the State agency and local school food authorities to operate the School Nutrition Programs (National School Lunch, School Breakfast and Special Milk Programs) is to be made a permanent document which may be amended, as necessary; and (2) any school food authority is allowed to certify any child as eligible for free or reduced price lunches or breakfasts by directly communicating with the appropriate State or local agency to obtain documentation that the child is a member of either a household receiving food stamps or an Aid to Families with Dependent Children (AFDC) assistance unit (information obtained in this manner must be used only for the purpose of determining eligibility for meal or milk benefits). These amendments are intended to reduce administrative paperwork burdens, simplify the certification process for free and reduced price benefits, and expedite the feeding of needy children. The manner in which the Department proposes to implement these provisions is discussed below.

Permanency of State Agency-Local Agreements

Prior to the enactment of Public Law 101-147, school food authorities entered into a written agreement with the State agency each year to administer the School Nutrition Programs in schools under their jurisdiction. Similarly, child care institutions annually entered into written agreements with the State agency to operate the Special Milk Program. Please note that references in this document to child care institutions are limited to child care institutions that participate in the Special Milk Program under 7 CFR part 215. Sections 201 and 212 of Public Law 101-147 amended the National School Lunch Act and the Child Nutrition Act to require the agreement to be a permanent document and to provide for amendments to the agreement, as necessary. Additionally, sections 201, 211, and 212 specify that the permanency of the agreement does not prohibit the State agency from suspending or terminating the agreement in accordance with regulations prescribed by the Secretary. In response to this statutory provision, the Department proposes to amend the regulations for the National School Lunch Program, Special Milk Program and School Breakfast Program, §§ 210.9(b), 215.7(d) and 220.7(e), respectively, to make the agreement between a State agency and a school food authority or a child care institution a permanent document, as mandated by statute.

While the changes above are nondiscretionary, the Department has exercised some discretion in proposing to make the free and reduced price policy statement permanent as well. In accordance with current §§ 210.9(a), 215.7(b)(2), and 220.7(a)(7), each school food authority entering into an agreement with a State agency to participate in the National School Lunch or School Breakfast Programs or the Special Milk Program with the free milk option must currently submit a free and reduced price policy statement that meets the requirements of § 245.10. Similarly, child care institutions agreeing to participate in the Special Milk Program with the free milk option must submit a free and reduced price policy statement in accordance with § 215.13a(b) of the current regulations. The policy statement consists of an assurance that the school food authority will abide by the provisions of part 245 and describes how the school food authority's free and reduced price policy provisions will be uniformly implemented in schools throughout the school food authority. In accordance

with current § 245.10(a)(1)-(5), at a minimum, the policy statement must include (1) the official(s) designated by the school food authority to make free and reduced price meal and free milk eligibility determinations on its behalf; (2) a copy of the Income Eligibility Guidelines (also referred to as "family-size income guidelines") for determining household eligibility for free and reduced price benefits; (3) the specific procedures for accepting free and reduced price meal or free milk applications from households; (4) a description of the collection procedures to prevent the overt identification of children eligible for free and reduced price meals or free milk; and (5) an assurance that the school(s) will abide by the hearing procedure and nondiscrimination practices set forth in the regulations. Section 215.13a(d) of the current regulations sets forth similar requirements for the policy statement for free milk for child care institutions. Pursuant to § 245.10(b), the policy statement must also include a copy of the application form and the letter or notice to parents informing them about free and reduced price benefits. Once approved, the policy statement becomes part of the State agency-school food authority/child care institution agreement to operate the programs. Although many provisions in the school food authority/child care institution's free and reduced price policy statement do not change from year to year, currently the school food authority/child care institution must annually submit its policy statement to the State agency for approval. If the school food authority/child care institution does not have an approved free and reduced price policy statement on file at the State agency by October 15 each year, § 245.10(c) provides for suspension of reimbursement and commodities until the statement is approved. Similarly, § 215.13a(c) provides that a child care institution shall not be approved to participate unless the free milk policy has been reviewed and approved.

Additionally, State agencies are required under § 245.11(a)(1) and § 215.13a(b) to annually issue to each school food authority and child care institution a prototype free and reduced price policy statement for free and reduced price meals or free milk, as applicable, and all instructions necessary to ensure that the school food authorities/child care institutions are fully informed of the requirements related to free and reduced price benefits. The State agency must review each school food authority's and child care institution's policy statement and

notify of either approval of their policy statement or the need for revision. Any change to an approved policy statement must be submitted to the State agency for approval prior to implementation.

Congress did not specifically include the free and reduced price policy statement in the provisions of Public Law 101-147 concerning permanent agreements. However, in keeping with Congressional intent to reduce the paperwork burdens associated with program participation, the Department believes that the burden associated with the annual submission and approval of the free and reduced price policy statement can be reduced by making most of the provisions in the statement permanent. The Department, however, is concerned that households receive adequate information about the programs available to them and the related eligibility criteria.

Therefore, the Department proposes to amend § 245.10 to make the policy statement a permanent document which may be amended as necessary, with certain exceptions. The policy statement would continue to be required to contain the items and attachments specified in § 245.10(a) and § 245.10(b). This rule would also amend § 245.10(b) to require certain additional attachments to the policy statements: the public release required to be issued at the beginning of each school year currently under § 245.5(a)(2); the notice to households of approval/denial of benefits, currently required under § 245.6(b); the notice of selection for verification of eligibility and adverse action, currently required under § 245.6a(a)(2); and the notice to food stamp/AFDC households regarding their children's eligibility for benefits under direct certification procedures, required under § 245.6(b) of this proposal. The Department has determined that many State agencies traditionally request these documents with the policy statements required by the regulations and therefore these new requirements should not pose a significant burden on school food authorities.

Except as described below, once approved, the school food authority would only amend its policy statement and attachments as changes occur. The Department expects any amendments primarily to involve discretionary changes initiated by the school food authority, such as a change in collection procedures, or changes in procedures required by the State agency due to regulatory changes. Amendments to an approved policy statement would continue to require approval by the State agency prior to implementation.

As noted in the discussion above, the free and reduced price policy provisions in § 215.13a(d) for free milk in child care institutions are similar to those contained in § 245.10 for schools.

Because of the very small number of child care institutions that participate in the Special Milk Program (only about 300 nationwide), the Department believes that many State agencies use the same prototype policy statement for child care institutions participating in the milk program as they use for schools that participate in the milk program. Therefore, for consistency and to reflect the manner in which the programs actually operate, the Department is proposing to delete § 215.13a and require that child care institutions participating in the Special Milk Program with the free milk option comply with the provisions in part 245 and provide free milk to eligible children under the same terms and conditions as pertaining to free milk in schools. Accordingly, further references in this rule to school food authorities should be read to include child care institutions providing free milk under the Special Milk Program.

As an exception to this permanency requirement, this rule proposes to require each school food authority to annually submit to the State agency for approval only those documents which were determined necessary to ensure that school food authorities are properly notifying the public of the annually revised eligibility criteria. These include (1) the public release; (2) the notice or letter to households regarding application for benefits; (3) the application form; and (4) any other documents or provisions that contain the eligibility criteria for free and reduced price benefits. In lieu of submitting these documents, however, a school food authority and child care institution may annually notify the State agency that it is adopting the State agency prototypes as its own. State agencies would continue to be required to annually provide school food authorities and child care institutions with, at a minimum, the Income Eligibility Guidelines, a prototype public release, notice or letter to households and application form, and any instructions necessary to ensure that school food authorities and child care institutions are fully informed of the requirements under part 245. Thus, it would be incumbent on the State agency to determine the needs of its school food authorities and child care institutions. For school food authorities that do not use the State agency prototype materials, the State agency would

continue to review each school food authority's public release, notice or letter to households and application form, notify the school food authority of approval and to distribute the materials. The State agency would continue to have responsibility for approving any changes to a policy statement of a school food authority and a child care institution and for ensuring that school food authorities and child care institutions are in compliance with the free and reduced price provisions under part 245. The regulations would continue to require that the school food authority and child care institution have a currently approved policy statement on file at the State agency by October 15. Thus, this rule proposes to amend §§ 245.10(a)-(c) and 245.11(a)-(d) to implement the above changes and to clarify current language in the existing regulatory provisions.

Certification of Children from Food Stamp/AFDC Households

Section 202(b)(1) of Public Law 101-147 amends section 9(b)(2)(C) of the National School Lunch Act to allow a school food authority to certify children as eligible for free or reduced price meals, without further application, by directly communicating with the appropriate State or local agency to obtain documentation that the children are members of households currently receiving food stamps or are part of households currently receiving AFDC assistance. Section 202(b)(1) also specifies that school food authorities that obtain such information shall use the information only for the purpose of determining eligibility for participation in programs under the National School Lunch Act (42 U.S.C. 1751) and the Child Nutrition Act (42 U.S.C. 1771). This limitation is consistent with the Department's longstanding policy that the information provided on the application by households is only for the determination of eligibility for free and reduced price benefits and that the information on the application and the eligibility status of individual children are confidential.

Additionally, a statement adopted by key members of the House and Senate indicated their intent that school food authorities provide parents the opportunity to decide whether or not they want their children to receive free meals by notifying parents of their children's eligibility for free benefits and asking them to inform the school if they do not want their children to receive free meals. (135 Cong. Rec. H 6866 (Oct. 10, 1989) and S 14027 (Oct. 24, 1989.)) The statement further provides that

school officials are to assume consent if they do not hear from the household within a certain number of days as specified by the Secretary.

As mentioned above, the Department believes that it is important to have consistency between the school meal programs and the Special Milk Program. Further, it is the intention of the Department to make the application process for free and reduced price lunches and free milk as simple as possible for all parties involved in the process. The Department, therefore, proposes to extend the following amendments concerning the direct certification of children receiving food stamps or AFDC benefits to children eligible under the Special Milk Program. By doing so, children eligible for free milk will receive this benefit as expeditiously as possible. Further, although the law provides that the food stamp/AFDC information be used to determine eligibility for free or reduced price meals, under this rule the reference to "or reduced price" is dropped. This modification is made to clarify that children who are members of food stamp households or part of AFDC assistance units are already categorically eligible for free benefits under section 9(b)(6) of the National School Lunch Act.

Section 245.2(a)(4) of the regulations currently defines "documentation" as the completion of specific information on a free and reduced price application. To implement the direct certification provision of section 202(a)(2), the Department proposes to expand that definition to include certification obtained directly from the appropriate food stamp or AFDC office. Documentation in this situation would be (1) a list of names of the children, (2) a statement certifying that the children are members of households currently certified to receive food stamps or of assistance units currently certified to receive AFDC benefits, (3) information in sufficient detail to match the children attending schools in the school food authority with the names of children identified as currently certified to receive food stamps/AFDC benefits, (4) the signature of the official of the food stamp or AFDC office, and (5) the date.

The Department emphasizes that the information provided by the food stamp/AFDC office must be in sufficient detail to enable the school or school food authority to match the names of children on the food stamp/AFDC list with children enrolled in the school food authority. The Department considers this as essential for ensuring that benefits are made available only to

eligible children. The accurate identification of children in large school districts where a number of children may have the same or similar names may pose a problem. Therefore, it is essential that documentation include some type of specific identifying information that is available to both the school and the food stamp/AFDC office to ensure that benefits are directed to the correct children. This could include children's addresses, parents' names, birth dates, or other types of information, including social security numbers, which would substantiate that the individual children enrolled in the school are those children listed by the food stamp or AFDC office as currently certified to receive benefits. Since households move and parents' names may not be listed the same way at both the school and at the food stamp/AFDC office, addresses or parents' names by themselves may not always be adequate identifiers. Thus, it may be necessary to use more than one personal identifier. It would be incumbent on school officials who want to use direct certification to contact the appropriate State or local agency to discuss how this direct certification provision may be implemented locally. Commenters should be aware that nothing in the statute or this regulation requires the local food stamp/AFDC office to provide this information. Nevertheless, both the Food Stamp Program and AFDC are permitted by their authorizing legislation to disclose or confirm information obtained from their recipients to other Federal assistance programs and federally-assisted State programs (7 U.S.C. 2020(e)(8); 42 U.S.C. 602(a)(8)(c)). The Department will request that State and local food stamp offices cooperate with school food authorities in implementing this provision and will ask for the cooperation of the Department of Health and Human Services in notifying their State and local AFDC offices of this provision and asking them to cooperate. However, it is possible that State and local offices may individually elect to share or not to share this information. Moreover, the specific information which may be available and released and the manner in which it may be obtained may differ from State to State and locality to locality. This is due to methods of filing (automated vs. manual, filing by case numbers, social security numbers, or head of household) and other basic differences among the Food Stamp, AFDC and School Nutrition Programs. Therefore, school food authorities intending to implement the direct certification provision would need

to contact their State or local food stamp/AFDC office to enlist their cooperation and to identify the information that is available and establish a system for obtaining the required documentation.

Section 9(b)(2)(B) of the National School Lunch Act and § 245.5(a)(1) of the regulations require school food authorities to distribute free and reduced price meals or free milk applications and letters to parents/guardians of children in attendance at the school at the beginning of the school year. The Department is aware that there could be confusion and duplication if households that have children who are eligible for free meals or free milk under direct certification receive multiple sets of applications and letters. The Department is also concerned with preventing the overt identification of children eligible for free meals or milk under direct certification. The Department is proposing to amend § 245.5(a)(1) to provide an option for school food authorities that implement direct certification. Under this provision, school food authorities that implement direct certification need not send the notice or letter and application to those households eligible under direct certification when these materials are distributed through the mail, individual student packets, or other method which prevents the overt identification of children eligible for direct certification. Households with children who are eligible for free meals and free milk under direct certification must receive a notice concerning eligibility for benefits, as required under § 245.6(b) of this proposal. Thus parents will either receive a notice or letter and application regarding free meals or free milk, or a notice that their children are eligible for free meals or free milk under direct certification. School food authorities that do not distribute the notice or letter and application, or notice concerning eligibility for benefits under direct certification using a method mentioned above must continue to distribute the notice or letter and application to all households to avoid the overt identification of those children eligible under the direct certification.

Additional conforming amendments are proposed in § 245.6 to allow the determination of eligibility based on direct certification in lieu of an application and to clarify that children from food stamp households or AFDC assistance units are automatically eligible for free benefits. To ensure that households determined as eligible based on direct certification are given the opportunity to decline benefits,

§ 245.6(c)(1) is further proposed to require that school food authorities provide these households with written notice that their children are eligible for benefits, that no further application is required, and that they must notify the school if they do not want their children to receive free meals or milk benefits. This notice also would advise households that they must notify the school when they no longer receive food stamps or AFDC. Under this proposal, school food authorities would provide benefits to children determined eligible based on documentation from the food stamp/AFDC office as promptly as possible. However, school food authorities would promptly discontinue the benefits if they are notified that households do not want free benefits for their children. School food authorities would document such notification and make it available for review. Additionally, households that notify the school that the child is no longer a member of a currently certified food stamps household or AFDC assistance unit would be provided the opportunity to complete an application to establish continued eligibility.

The recordkeeping provisions in §§ 210.9(b)(17), 215.7(d)(8) and 220.7(e)(14) require that school food authorities maintain free and reduced price applications on file for 3 years after the end of the fiscal year to which they pertain. Thus, the Department proposes to amend § 245.6(b) to require that school food authorities maintain the documentation obtained from the food stamp/AFDC office for 3 years, since this documentation substantiates children's eligibility for benefits in lieu of the free and reduced price application. Consistent with other recordkeeping requirements, this information shall be maintained beyond the 3 year period as long as required for resolution of issues raised if audited.

Although the intent of the provision allowing eligibility determinations based on direct communication with the food stamp/AFDC office is to expedite the delivery of benefits to needy children, the Department has some concern about providing free benefits, prior to household consent, to children from households who have not specifically requested meal or milk benefits for their children. It is possible that some households could regard this policy as an infringement upon their rights. However, the Department believes that few households will decline benefits and that providing meals and milk to needy children as quickly as possible outweighs other concerns. Moreover, households would

still have the opportunity to decline benefits and, if they exercise this option, schools must comply promptly. The Department is encouraging comment on this provision.

Further, under this proposed rule, households determined eligible based on documentation from the food stamp/AFDC office are not subject to verification of eligibility required under § 245.6a. Most school food authorities will obtain documentation from the food stamp/AFDC office in August or September. Since school food authorities must complete the verification requirements by December 15 each year, the Department does not believe that enough of these households will have changed eligibility status in that period of time to make the verification process for these households cost effective. The Department prefers that limited resources be used to verify those households which submit applications.

Summary of Discretionary Provisions

The Department is encouraging comments on those proposed provisions in which Department has some discretion on implementation. Of particular interest to the Department are comments on the following provisions: (1) The expansion of the free and reduced price policy statement and making the policy statement a permanent document, to be amended as necessary; (2) the annual submission and approval of those portions of the expanded policy statement which provide the eligibility criteria, (i.e., the letter to households with the proposed household application for free and reduced price benefits and public release, unless the State agency prototypes are adopted); (3) the requirement that documentation for children determined as eligible for free benefits based on direct certification include identifying information to link the names of children receiving food stamps/AFDC with individual children enrolled in the school food authority; (4) the requirement that school food authorities promptly provide benefits to such children and the method by which households may decline benefits; and (5) the exclusion from verification requirements of households whose children are determined eligible based on direct certification. In addition to State agency and school food authority comment, the Department encourages comments from State and local food stamp and AFDC offices and other interested members of the public.

List of Subjects in Parts 210, 215, 220, and 245

7 CFR Part 210

Food assistance programs, National School Lunch Program, Commodity School Program, Grant programs-social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 215

Food assistance programs, Special Milk Program, Grant programs-social programs, Nutrition, Children, Reporting and recordkeeping requirements.

7 CFR Part 220

Food assistance programs, School Breakfast Program, Grant programs-social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 245

Food assistance programs, Grant programs-social programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Reporting and recordkeeping requirements.

Accordingly parts 210, 215, 220, and 245 are proposed to be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for part 210 continues to read as follows:

Authority: The provisions of part 210 issued under sec. 2-12, 60 Stat. 230, as amended; sec. 10, 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 1751-1760, 1779.

2. In § 210.9, introductory paragraph (b) is amended by removing the title and the first two sentences and by adding a new title and two new sentences in their places to read as follows:

§ 210.9 Agreement with State agency.

*(b) Agreement. Each school food authority approved to participate in the program shall enter into a permanent written agreement with the State agency that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State agency to suspend or terminate the agreement in accordance with § 210.24.

* * * * *

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

1. The authority citation for part 215 continues to read as follows:

Authority: Secs. 3, 10, Child Nutrition Act of 1966, as amended (42 U.S.C. 1772, 1779).

§ 215.7 [Amended]**2. In § 215.7:**

a. The second sentence in introductory paragraph (b) is amended by adding a comma after the word "Program" and removing the words and comma "and thereafter at least annually,";

b. Paragraph (b)(2) is revised; and

c. Introductory paragraph (d) is amended by removing the first sentence and adding two new sentences in its place.

The revision and addition read as follows:

§ 215.7 Requirements for participation.

(b) ***

(2) If it wished to provide free milk, shall also submit for approval a free milk policy statement in accordance with part 245 of this chapter.

(d) Each school food authority or child care institution approved to participate in the program shall enter into a permanent written agreement with the State agency or the Department through the FNSRO, as applicable, that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State agency to suspend or terminate the agreement in accordance with § 215.15. ***

§ 215.13a [Removed]

3. Section 215.13a is removed.

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for part 220 continues to read as follows:

Authority: Secs. 4 and 10 of the Child Nutrition Act of 1966, 80 Stat. 886, 889 (42 U.S.C. 1773, 1779), unless otherwise noted.

2. In § 220.7, introductory paragraph (e) is amended by removing the first sentence and adding two new sentences in its place to read as follows:

§ 220.7 Requirements for participation.

(e) Each school food authority approved to participate in the program shall enter into a permanent written agreement with the State agency or the Department through the FNSRO, as applicable, that may be amended as

necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State agency to suspend or terminate the agreement in accordance with § 220.18. ***

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

1. The authority citation for part 245 continues to read as follows:

Authority: Secs. 3, 4, and 10, 80 Stat. 885, 886, 889, as amended (42 U.S.C. 1772, 1773, 1779); secs. 2-12, 60 Stat. 230 as amended (42 U.S.C. 1751-60).

2. In § 245.2, paragraph (a-4) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 245.2 Definitions.

(a-4) *** In lieu of an application, documentation means a list of names of children; a statement certifying that the children are members of currently certified food stamp households or AFDC assistance units; information in sufficient detail to match the children attending schools in the school food authority with the names of children certified as members of food stamp households or AFDC assistance units; the signature of the individual authorized to provide the certification on behalf of the Food Stamp or AFDC office, as appropriate; and the date.

3. § 245.5 is amended by revising the first sentence in paragraph (a)(1) to read as follows:

§ 245.5 Public announcement of the eligibility criteria.

(a) ***

(1) Except as provided in § 245.6(b), a letter or notice and application distributed on or about the beginning of each school year, to the parents of all children in attendance at school. ***

4. § 245.6 is amended as follows:

a. The introductory text of paragraph (b) and paragraphs (b)(1), (b)(2), and (c) are redesignated as the introductory text of paragraph (c) and paragraphs (c)(2), (c)(3), and (d) respectively;

b. New paragraphs (b) and (c)(1) are added; and

c. Redesignated paragraph (c) introductory text is revised. The addition and revision read as follows:

§ 245.6 Application for free and reduced price meals and free milk.

(b) *Certification by the Food Stamp/AFDC Office.* With State agency approval, in lieu of determining eligibility based on information provided by the household on the free and reduced price meal or milk application specified in paragraph (a) of this section, school food authorities may determine children to be eligible for free meals or milk based on documentation obtained directly from the appropriate State or local agency responsible for the administration of the Food Stamp Program and/or the AFDC Program. The documentation shall include the names of the children; a statement certifying that the children are members of currently certified food stamp households and/or AFDC assistance units; information in sufficient detail to match the children attending schools in the school food authority with the names of children certified as members of food stamp households or AFDC assistance units; the signature of the individual authorized to provide the certification on behalf of the food stamp or AFDC office, as appropriate; and the date.

(1) The school food authority shall maintain such documentation substantiating eligibility determinations on file for 3 years after the date of the fiscal year to which they pertain, except that if audit findings have not been resolved, the documentation shall be maintained as long as required for resolution of the raised by the audit.

(2) Information about the child or the household obtained directly from the food stamp or AFDC office shall be kept confidential and shall be used solely for the purpose of determining the child's eligibility for school meal or milk benefits.

(3) If school food authorities choose to distribute the letters or notices and application forms specified in § 245.5(a) and notice to households concerning eligibility for benefits under direct certification specified in § 245.6(c)(1) through the mail, individualized student packets, or other method which prevents the overt identification of children eligible for direct certification, the school food authorities are not required to mail the letter or notice or application form under § 245.5(a) to the parents of children who are eligible for free meals or free milk based upon documentation obtained directly from the food stamp or AFDC office.

(c) *Determination of eligibility.* School food authorities may seek verification of eligibility. School officials shall take the income and frequency information provided by the household on the application and calculate the household's total current income. When

a household submits an application containing complete documentation, as specified in § 245.2(a-4), and the household's total current income is at or below the eligibility limits specified in the Income Eligibility Guidelines, the children in that household shall be approved for free or reduced price benefits, as applicable. When a household submits an application containing the required food stamp or AFDC documentation, as specified in § 245.2(a-4), the children in that household shall be approved for free benefits. Additionally, when the school food authority obtains documentation directly from the State or local agency responsible for the administration of the Food Stamp Program and/or AFDC Program that children are members of currently certified food stamp households or AFDC assistance units, as specified in § 245.2(a-4), the school food authority shall approve such children for free benefits without application from the households.

(1) *Notice of Approval.* The school food authority shall promptly notify the household of the children's eligibility and provide the children from the household the benefits to which they are entitled. Households approved for benefits based on documentation provided by the appropriate State or local agency responsible for the administration of the Food Stamp or AFDC Program shall be notified in writing that its children are eligible for free meals or free milk, that households must contact the school when the children are no longer members of a food stamp household or AFDC assistance unit, and that no application is required at this time. The notice shall also inform households that they must notify the school if they do not want their children to receive free benefits. Children from households that notify the school that they do not want free benefits shall have their benefits discontinued as soon as possible. Any notification from the household declining benefits shall be documented and maintained on file. Additionally, a school food authority that is notified by the household that the children are no longer members of food stamps households or AFDC assistance units shall follow the procedures for adverse action, as specified in § 245.6a(e), and shall inform the household that it must submit an application with income information to establish continued eligibility for such children.

4. § 245.6a is amended by adding a sentence at the end of paragraph (a)(5). The addition reads as follows:

§ 245.6a Verification requirements.

(a) * * *
(5) * * * Verification of eligibility is not required of households for which the determination of eligibility was based on documentation provided by the State or local agency responsible for the administration of the Food Stamp Program or AFDC Program

* * * * *

5. In § 245.10,

- a. The introductory text of paragraph (a) is amended by adding a sentence between the first and second sentences;
- b. Paragraph (b) is revised; and
- c. Paragraph (c) is revised.

The addition and revisions read as follows:

§ 245.10 Action by School Fund Authorities.

(a) * * * Once approved, the policy statement shall be a permanent document which may be amended as necessary, except as specified in paragraph (c) of this section. * * *

* * * * *

(b) The policy statement submitted by each school food authority shall be accompanied by a copy of application form, the letter or notice to households which accompanies the application form and the public release, as specified in § 245.5(a)(2), the notice to households of approval/denial, as specified in § 245.6(b), the notices of selection for verification and adverse action, as specified in § 245.6a(a)(2), and in school food authorities that have opted to implement direct certification as described in § 245.6(b), the notice to households regarding their children's eligibility under the direct certification provision.

(c) Each school fund authority shall annually amend its prior year's policy statement to reflect changes resulting from revisions to the eligibility criteria for free and reduced price benefits for the current school year. At a minimum, such amendment shall include the public release, letter or notice to households regarding application for benefits and the application form, and any other documents or provisions that contain the eligibility criteria for free and reduced price benefits. Such amendment to a policy shall be approved by the State agency prior to implementation, or as provided under § 245.10(e). In lieu of submitting these documents as amendments to its policy statement, the school food authority may notify the State agency in writing that it is adopting the State agency prototypes as its own. Each year, if a school food authority does not have its policy statement approved by the State agency,

or FNSRO where applicable by October 15 or as provided under § 245.10(e), reimbursement shall be suspended for any meals or milk served until such time as the school food authority's free and reduced price policy statement has been approved by the State agency, or FNSRO where applicable. Further, no commodities donated by the Department shall be used in any school after October 15, or as provided under § 245.10(e), until such time as the school food authority's free and reduced price policy statement has been approved by the State agency, or FNSRO where applicable. Once the school food authority's free and reduced price policy statement has been approved, reimbursement may be allowed at the discretion of the State agency, or FNSRO where applicable, for eligible meals and milk served during the period of suspension. Pending approval of a revision of a policy statement, the existing statement shall remain in effect.

* * * * *

6. In § 245.11,

- a. Paragraphs (a), (b), (c) and (d) are revised; and
- b. Paragraph (a-1) is removed.

The revisions read as follows:

§ 245.11 Action by State agencies and FNSRO's.

(a) As necessary, each State agency or FNSRO, as applicable, shall issue a prototype free and reduced price policy statement and any other instructions necessary to ensure that each school food authority is fully informed of the provisions of this part. By July 1 each year, the State agency shall publicly announce the Income Eligibility Guidelines as issued by the Department. If the State agency elects to establish a maximum price for reduced price lunches in all schools that is less than 40 cents, the State agency shall establish that price in its prototype policy. Such State agency shall receive the adjusted national average factor in accordance with § 210.4(b).

(b) State agencies or FNSRO where applicable shall review any amendments to policy statements submitted by school food authorities for compliance with the provisions of this part and inform the school food authorities of any necessary changes or amendments required in any policy statement to bring the statement into compliance. Annually, each state agency shall notify school fund authorities in writing of approval of the amendments to their policy statements required under § 245.10(c) and, shall direct the school fund authority to distribute promptly the

public announcements required under § 245.5.

(c) When there is a revision in the criteria for determining eligibility for free and reduced price meals or free milk because of a change in the Department's Income Eligibility Guidelines or because of other program changes, the State agency or FNSRO as applicable shall publicly announce the revised criteria no later than 30 days after the Department has announced the change.

(d) Not later than 10 days after the State agency or FNSRO as applicable announces the change in free and reduced price eligibility criteria, it shall notify school food authorities in writing of any amendment to their free and reduced price policy statements necessary to bring their policy statements into conformance with this part.

* * * * *

Dated: May 20, 1991.

Betty Jo Nelsen,
Administrator, Food and Nutrition Service.
[FR Doc. 91-12454 Filed 5-24-91; 8:45 am]
BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 989

[FV-91-258PR]

Raisins Produced From Grapes Grown in California; Revising Reserve Pool Requirements for Certain Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a change to the administrative rules and regulations of the California raisin marketing order. This action would revise reserve pool requirements for raisins produced from Fiesta, Emerald Seedless, Perlette, Delight, and other similar grape varieties. This change was recommended by the Raisin Administrative Committee (Committee), which is responsible for local administration of the Federal marketing order regulating the handling of raisins produced from grapes grown in California.

DATES: Comments must be received by June 27, 1991.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division,

AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the *Federal Register* and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3920.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under marketing agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

There are approximately 25 handlers of California raisins who are subject to regulation under the raisin marketing order, and approximately 5,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. A majority of producers and a minority of handlers of California raisins may be classified as small entities.

This proposed rule invites comments on a change to the administrative rules and regulations of the raisin marketing order. This action was unanimously recommended by the Committee.

The change would revise the reserve pool requirements for raisins produced from Fiesta, Perlette, Delight, Emerald Seedless and other similar grape varieties. Currently, these varietal types are included under the Natural (sun-dried) Seedless raisin category.

Section 989.110(a) of the rules and regulations provides the definition for Natural (sun-dried) Seedless varietal type of raisin which includes all sun-dried seedless raisins that possess characteristics similar to Natural Thompson Seedless raisins. The above-mentioned grape varieties fit into this varietal type category when they are sun-dried into raisins. Raisins made from Fiesta, Perlette, Delight, Emerald Seedless and other similar grape varieties that meet the minimum grade and condition standards may be placed in the Natural (sun-dried) Seedless reserve pool by handlers to satisfy their reserve pool obligations. (§ 989.66). The reserve portion of a crop must be held by handlers for the account of the Committee to be sold into specified outlets throughout the crop year.

Reserve pool raisins must be stored by handlers until they are relieved of their responsibility by the Committee. The Committee may relieve a handler's reserve pool responsibility by transferring reserve pool raisins to another handler who needs reserve pool raisins for an authorized reserve pool purchase. The Committee has found that some handlers are reluctant to accept raisins from the Natural (sun-dried) Seedless reserve pool that are of the Fiesta, Perlette, Delight, Emerald Seedless, and other similar grape varieties from other handlers because the receiving handlers do not have a market for them.

Raisins made from these varietal types are somewhat larger than raisins made from the Thompson Seedless grape and generally are sold into different markets. Therefore, the Committee has recommended that handlers who acquire raisins from the Fiesta, Perlette, Delight, Emerald Seedless, and other similar grape varieties from producers and place them in the Natural (sun-dried) Seedless reserve pool be required to utilize such raisins. Handlers could not transfer reserve pool raisins made from the above-mentioned varietal types unless the transfer to another handler was acceptable to the Committee or the receiving handler. Handlers acquiring

such raisins could place them in the reserve pool. However, they would be required to use them rather than transfer them to another handler. This would alleviate the concerns receiving handlers have in accepting such raisins when they have no market in which to sell them. In the case where handlers may not have any other reserve pool raisins besides raisins made from the Fiesta, Perlette, Delight, Emerald Seedless, and other similar grape varieties, handlers could substitute free tonnage raisins that would be acceptable to the Committee for the varieties mentioned above. Substitution of free tonnage for reserve pool tonnage is authorized under § 989.66(b)(3) of the marketing order.

The rules and regulations currently provide that handlers must identify each lot of raisins received by having the Inspection Service attach control cards to one container on each pallet or to each bin of raisins in a lot. Thus, each lot of raisins received and placed in the reserve pool can be identified as to its varietal type and can be properly disposed of by handlers. Therefore, this change could be easily implemented since containers are properly marked as to the varietal type of raisins.

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

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 989 be amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

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

2. Section 989.166 is amended by revising paragraph (a)(1) to read as follows:

§ 989.166 Reserve tonnage generally.

(a) *Setaside obligations*—(1) *Natural (sun-dried) Seedless*. Handlers who acquire any lot of natural condition Natural (sun-dried) Seedless raisins which have been dipped in or sprayed with water, with or without chemicals prior to or during the drying process, for purposes other than to expedite drying, or that have been produced from

seedless varieties of grapes other than Thompson Seedless (i.e., Fiesta, Emerald Seedless, Perlette, Delight, and other similar grape varieties), may set aside such raisins to satisfy their reserve pool obligation: *Provided*, That such raisins shall be identified by the Inspection Service affixing to one container on each pallet or to each bin in each lot, a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed until raisins are processed or disposed of as natural conditions raisins: and *Provided further*, That such raisins shall not be delivered to the Committee or transferred to another handler without approval of the Committee or the receiving handler.

* * * * *

Dated: May 22, 1991.

Robert C. Kenney,

Deputy Director Fruit and Vegetable Division.

[FR Doc. 91-12496 Filed 5-24-91; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-13-AD]

Airworthiness Directives; Beech Models F33A, F33C, V35B, A36, A36TC, and B36TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to certain Beech Models F33A, F33C, V35B, A36, A36TC, and B36TC airplanes. The proposed action would require a one-time inspection and modification of the cabin fresh air blower installation. Blower housing attachments have failed on several of the affected airplanes. The actions specified in the proposed AD are intended to prevent blower housing failure, which could lead to blower impingement on the flight control cables located below the blower and possible loss of control of the airplane.

DATES: Comments must be received on or before July 29, 1991.

ADDRESSES: Beech Service Bulletin (SB) No. 2380, revised April 1991, that is discussed in this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address below. Send comments on the

proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-13-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT:

Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-13-AD, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

There have been reports of cracks in the housing of the fresh air blower that is installed as optional equipment on certain Beech Models F33A, F33C, V35B, A36, A36TC, B36TC airplanes. In one instance, the fresh air blower motor and fan blade cage separated from the housing and were secured to the aft fuselage frame by only the electrical wiring, which allowed the motor to continue to run. The fan blade severed the elevator trim cable, which is one of

several flight control cables in that area. Severing a flight control cable may lead to loss of control of the airplane.

As a result, Beech issued Service Bulletin (SB) No. 2380, revised April 1991, which specifies a one-time inspection and modification of the cabin fresh air blower installation on certain Beech Models F33A, F33C, V35B, A36, A36TC, B36TC airplanes. The FAA has determined that AD action is necessary to detect and correct cracks in the housing of the fresh air blowers on the affected airplanes.

Since the condition described is likely to exist or develop in other Beech Models F33A, F33C, V35B, A36, A36TC, B36TC airplanes of the same type of design, the proposed AD is intended to prevent blower housing failure, which could cause reduced control of the airplane. It would require a one-time inspection and modification of the cabin fresh air blower installation in accordance with the instructions in Beech SB No. 2380, revised April 1991.

It is estimated that 1,787 airplanes will be affected by the proposed AD, that it will take approximately 8 hours per airplane to accomplish the proposed inspection and modification at \$55 an hour, and that parts cost approximately \$300. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$1,322,380.

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 Federal Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Beech: Docket No. 91-CE-13-AD.

Applicability: The following model and serial number airplanes that are equipped with an optional fresh air blower, certificated in any category:

Model	Serial No.
F33A.....	CE-941 through CE-1555.
F33C.....	CJ-156 through CJ-179.
V35B.....	D-10348, and D-10364 through D-10403.
A36.....	E-1809 through E-2592.
A36TC and B36TC.....	EA-192 through EA-514.

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

To prevent fresh air blower housing failure, which could lead to blower impingement on the flight control cables located below the blower and possible loss of control of the airplane, accomplish the following:

(a) Inspect and modify as required the attachment of the fresh air blower housing in accordance with the instructions and the criteria contained in Beech Service Bulletin No. 2380, revised April 1991.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas, 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 16, 1991.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-12475 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Regulations No. 4

RIN 0960-AC68

Federal Old-Age, Survivors, and Disability Insurance; Suspension of Benefits of Deported Nazis; Exemption from Social Security Because of Religious Belief

AGENCY: Social Security Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: These regulations reflect provisions of the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), Public Law 100-647, and the Omnibus Budget Reconciliation Act of 1989 (OBRA), Public Law 101-239, that provide—

1. For the nonpayment of Social Security benefits if an individual is ordered deported from the United States because of certain past activities performed under the direction of or in association with the Nazi government of Germany or one of its allies;

2. For an exemption from Social Security if an employee and his or her employer both belong to a religious faith and are adherents to established tenets and teachings of that faith opposed to acceptance of insurance benefits including those provided by the Social Security program;

3. For an exemption from Social Security of an employee of a partnership if both the employee and the members of the partnership (each of the partners) belong to a religious faith and are adherents to the established tenets and teachings of that faith opposed to acceptance of insurance benefits including those provided by the Social Security program; and

4. For an exemption from Social Security for persons who have religious convictions in opposition to the acceptance of insurance benefits including those provided by Social Security and who are employees of churches or church-controlled organizations, but who are treated as

self-employed individuals because the employing church or organization has exercised its option to be exempt from paying the employer portion of the Social Security Tax.

DATES: To be sure your comments are considered we must receive them no later than July 29, 1991.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to the Office of Regulations, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: L. V. Dudar, Legal Assistant, Office of Regulations, Social Security Administration, 3-B-1 Operations Buildings, 6401 Security Boulevard, Baltimore, MD 21235 (301) 965-1795.

SUPPLEMENTARY INFORMATION:

Nonpayment of Benefits After Deportation or Order of Deportation on the Basis of Association With Nazi Germany During World War II

Section 202(n) of the Social Security Act (the Act) provides that no monthly benefits shall be paid to a beneficiary entitled to old-age or disability insurance benefits on his or her wages or self-employment income who is ordered deported from the United States for violating specified provisions of the Immigration and Nationality Act. It also provides that if such a beneficiary is ordered deported under one of these specified provisions, no lump sum death benefit shall be paid on the basis of his or her earnings record and other benefits that may be payable on his or her earnings record may not be paid to a non-United States citizen outside the United States.

Section 8004 of TAMRA made two changes to section 202(n) of the Act. First, by adding a reference to paragraph 19 to section 241(a) of the Immigration and Nationality Act it incorporated Nazi war criminals into the list of individuals to whom benefits are not payable due to their deportation. Paragraph 19 provides for the deportation of an individual upon a finding that he or she persecuted others on account of their race, religion, national origin, or political opinion under the direction of or in association with the Nazi government of Germany or its allies. Second, TAMRA provided

that the date as to which benefits would not be paid to these war criminals would be the date of issuance of a final order of deportation from the United States under paragraph 19 of section 241(a) of the Immigration and Nationality Act. We are amending our regulations at 20 CFR 404.464 to reflect these statutory changes.

The nonpayment of benefits under the statutory amendments includes situations where a final order of deportation was issued, even though the actual deportation may not have occurred. However, it applies only in the case of final orders of deportation issued on or after November 10, 1988, and only to benefits for months beginning, and deaths occurring, on or after that date.

Exemption From Social Security for Employees and Employers Who Are Both Members of Certain Religious Faiths

Section 8007 of TAMRA added a new section 3127 to the Internal Revenue Code (the Code) and a conforming amendment to section 202(v) of the Act. Under this statutory change, an employee and his or her employer may file applications with the Internal Revenue Service (IRS) for exemption from their respective shares of the Federal Insurance Contributions Act taxes on the employee's wages based upon their religious convictions in opposition to acceptance of insurance benefits including those provided by Social Security. In order for the exemption to be granted, both the employee and his or her employer must have applications filed and approved and both must submit waivers of their right to receive benefits under title II and part A of title XVIII of the Act. Under section 202(v) of the Act, no benefits or other payments are payable under title II and part A of title XVIII of the Act to the individual who files such a waiver and receives such an exemption. In addition, no benefits or other payments are payable under title II and part A of title XVIII on the basis of the exempted individual's wages and self-employment income to any other person after the filing of the waiver.

Prior to the enactment of TAMRA, the availability of a Social Security tax exemption on religious grounds was limited under sections 202(v) and 211(c)(6) of the Act and section 1402(g) of the Code to individuals who were self-employed. Sections 404.1075 and 404.305 of the regulations implement the exemption from the Social Security self-employment tax and the corresponding waiver of benefits. The TAMRA enactment extends to an employee and

his or her employer the right to request a Social Security tax exemption if they both have religious convictions in opposition to participation in insurance programs including Social Security. Additionally, it provides that no exemption will be granted if the employee would be receiving benefits but for suspension of his or her benefits under section 203 or section 222(b) of the Act. This rule already applied to the exemption for self-employed persons, but was not reflected in the regulations. We are therefore revising § 404.1075 to reflect this rule for the self-employed. We are also amending § 404.305(a), which discusses the effect of the waiver of benefits, to revise a reference to the regulatory section describing the tax exemption on religious grounds for self-employed persons to reflect that that section currently appears in § 404.1075, and to clarify that, in order for a waiver of benefits to be applicable, it is necessary for the applicant to be granted a tax exemption in addition to filing the waiver.

Section 10204(b) of OBRA amended section 3127 of the Internal Revenue Code to provide that the tax exemption is available when an employee of a partnership and each partner in that partnership have religious convictions in opposition to participation in insurance programs including Social Security and file applications for exemption which include waivers of their right to receive benefits under title II and part A of title XVIII of the Act.

To reflect these new statutory provisions concerning the employee and employer, we are adding a cross-reference to § 404.305(a) of subpart D and adding a new section to subpart K, § 404.1039, which is modeled after § 404.1075, to state that, in order for the tax exemption to be granted, both an employee and his or her employer (or, if the employer is a partnership, each of its partners) must—

1. Belong to a recognized religious sect or a division thereof; and
2. Adhere to the tenets or teachings of that sect or division of the sect and for that reason conscientiously oppose the acceptance of insurance benefits from any public or private insurance including Social Security that—
 - a. Makes payment in the event of death, disability, old-age, or retirement; or
 - b. Makes payment for the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Act); and
3. File applications with IRS for exemption from Social Security taxation (which includes a waiver of the right to

receive benefits under title II and part A of title XVIII of the Act) that IRS approves pursuant to section 3127 of the Internal Revenue Code.

In order for an application to be approved, we must find that the sect or division of the sect has established tenets or teachings which cause the applicants to be conscientiously opposed to receiving the types of insurance benefits described above, that the sect or division of the sect has continuously been in existence since December 31, 1950, and that its members make provision for dependent members that is reasonable in view of their general level of living.

An application for exemption will be approved by the Internal Revenue Service only if no benefits became payable (or, but for section 203 or section 222(b) of the Act, would have become payable) to the applicant at or before the time the application was filed. Once IRS approves the tax exemption authorized under section 3217 of the Internal Revenue Code, the exemption continues until the exemption requirements are no longer met. If the exemption ceases to be in effect, the waiver of the right to receive Social Security and Medicare benefits will also no longer apply. However, earnings for years before the waiver ceases to apply cannot be used for Social Security benefit purposes.

The exemption provided under these statutory amendments applies to wages paid after December 31, 1988.

Exemption From Social Security of Workers in Churches and Church-Controlled Organizations

Section 10204(a) of OBRA amended 1402(g) of the Internal Revenue Code. Under this statutory change, employees of churches and church-controlled organizations who are treated as self-employed individuals because the employing church or church-controlled organization has been approved for exemption from payment of the Federal Insurance Contributions Act tax on religious grounds are exempt from payment of the Self-Employment Contributions Act tax effective for tax years beginning January 1, 1990, if the worker has an approved application for exemption as described in § 404.1075.

Prior to the enactment of OBRA, these church employees, who are treated as self-employed individuals, were subject to payment of the Self-Employment Contributions Act tax. We are therefore revising § 404.1068 to reflect this statutory change.

Regulatory Procedures

Executive Order 12291

These proposed regulations have been reviewed under Executive Order 12291 and the Secretary has determined that this is not a major rule since these regulations will not result in any significant costs or otherwise meet the criteria for a major rule. Therefore, a regulatory impact analysis is not required. The statutory amendments reflected in these regulations will cause a reduction in estimated Social Security tax revenues of \$13 million for FY 1990 and FY 1991, and \$14 million each for FY 1992, FY 1993, and FY 1994.

Paperwork Reduction Act

These proposed regulations impose no reporting/recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities since they only apply to individuals and certain partnerships. Consequently, these regulations will have a minimal overall economic impact and a regulatory flexibility analysis, as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program: No. 13.802 Social Security—Disability Insurance; No. 13.803 Social Security—Retirement Insurance; No. 13.805 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

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

Dated: December 28, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: April 3, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 404 of chapter III, title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950—)

1. The authority citation for subpart D is revised to read as follows:

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 228 (a)–(e), and 1102 of the Social Security Act; 42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 428 (a)–(e), and 1302.

2. Section 404.305 is amended by revising paragraph (a) to read as follows:

§ 404.305 When you may not be entitled to benefits.

* * * * *

(a) *Waiver of benefits.* If you have waived benefits and been granted a tax exemption on religious grounds as described in §§ 404.1039 and 404.1075, no one may become entitled to any benefits or payments on your earnings record and you may not be entitled to benefits on anyone else's earnings record; and

* * * * *

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

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

4. Section 404.464 is amended by revising paragraphs (a) and (c) to read as follows:

§ 404.464 Nonpayment of benefits where individual is deported; prohibition against payment of lump sum based on deported individual's earnings records.

(a) *Old-age or disability insurance benefits.* When an individual is deported under the provisions of paragraphs (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a) of the Immigration and Nationality Act, no old-age or disability insurance benefit is payable to the individual for any month occurring after the month in which the Secretary is notified by the Attorney General of the United States that the individual has been deported and before the month in which the individual is thereafter lawfully admitted to the United States for permanent residence. An individual is considered lawfully admitted for permanent residence as of the month he enters the United States with permission to reside here permanently. For purposes of this paragraph and paragraph (c) following, an individual ordered deported under paragraph (19) of section 241(a) of the Immigration and Nationality Act may not be considered deported unless the final order of deportation was signed on or after November 10, 1988. An individual so ordered deported shall be considered to have been deported as of the date on which such order became final, although the actual deportation may not have occurred.

* * * * *

(c) *Lump sum death payment.* No lump-sum death payment is payable on

the basis of the earnings of an individual deported under paragraphs (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a) of the Immigration and Nationality Act if the individual dies in or after the month in which notice that he has been deported is received by the Secretary and before the month in which the individual is thereafter lawfully admitted to the United States for permanent residence.

5. The authority citation for subpart K is revised to read as follows:

Authority: Secs. 202(v), 205(a), 209, 210, 211, 229(a), 230, 231, and 1102 of the Social Security Act; 42 U.S.C. 402(v), 405(a), 409, 410, 411, 429(a), 430, 431, and 1302.

6. A new § 404.1039 is added to subpart K to read as follows:

Exemption From Social Security by Reason of Religious Belief

§ 404.1039 Employers (Including Partnerships) and employees who are both members of certain religious groups opposed to insurance.

(a) You and your employer (or, if the employer is a partnership, each of its partners) may file applications with the Internal Revenue Service for exemption from your respective shares of the Federal Insurance Contributions Act taxes on your wages paid by that employer if you and your employer (or, if the employer is a partnership, each of its partners)—

(1) Are members of a recognized religious sect or division of the sect; and

(2) Adhere to the tenets or teachings of the sect or division of the sect and for that reason are conscientiously opposed to receiving benefits from any private or public insurance that—

(i) Makes payment in the event of death, disability, old-age, or retirement; or

(ii) Makes payment for the cost of, or provides services for, medical care including the benefits of any insurance system established by the Act.

(b) Both your application and your employer's application (or, if your employer is a partnership, each partner's application) must be filed with and approved by the Internal Revenue Service pursuant to section 3127 of the Internal Revenue Code. An application must contain or be accompanied by the applicant's waiver of all benefits and payments under title II and part A of title XVIII of the Act. See § 404.305 for the effect of the filing of the waiver and the granting of the exemption.

(c) Regardless of whether the applicant meets all these conditions, the application will not be approved unless we find that—

(1) The sect or division of the sect has established tenets or teachings which cause the applicant to be conscientiously opposed to the types of insurance benefits described in paragraph (a)(2) of this section; and

(2) For a substantial period of time it has been the practice for members of the sect or division of the sect to make provision for their dependent members that is reasonable in view of their general level of living; and

(3) The sect or division of the sect has been in existence continuously since December 31, 1950.

(d) An application for exemption will be approved by the Internal Revenue Service only if no benefit or payment under title II or part A of title XVIII of the Act became payable (or, but for section 203 or section 222(b) of the Act, would have become payable) to the applicant at or before the time of the filing of the application for exemption.

(e) The tax exemption ceases to be effective with respect to wages paid beginning with the calendar quarter in which either the employer (or if the employer is a partnership, any of its partners) or the employee involved does not meet the requirements of paragraph (a) of this section or the religious sect or division of the sect is found by us to no longer meet the requirements of paragraph (c) of this section. If the tax exemption ceases to be effective, the waiver of the right to receive Social Security and Medicare part A benefits will also no longer be effective. Benefits may be payable based upon the wages of the individual, whose exempt status was terminated, for and after the calendar year following the calendar year in which the event occurred upon which the cessation of the exemption is based. Benefits may be payable based upon the self-employment income of the individual whose exempt status was terminated for and after the taxable year in which the event occurred upon which the cessation of the exemption is based.

7. Section 404.1068 is amended by revising paragraph (f) to read as follows:

§ 404.1068 Employees who are considered self-employed.

(f) *Employees of a church or church-controlled organization that has elected to exclude employees from coverage as employment.* If you perform services that are excluded from employment as described in § 404.1026, you are engaged in a trade or business. Special rules apply to your earnings from those services which are known as church employee income. If you are paid \$100 or

more in a taxable year by an employer who has elected to have its employees excluded, those earnings are self-employment income (see § 404.1096(c)(1)). In figuring your church employee income you may not reduce that income by any deductions attributable to your work. Your church employee income and deductions may not be taken into account in determining the amount of other net earnings from self-employment. Effective for taxable years beginning on or after January 1, 1990, your church employee income is exempt from self-employment tax under the conditions set forth for members of certain religious groups (see § 404.1075).

8. Section 404.1075 is amended by revising paragraphs (b) and (d) and adding paragraph (e) to read as follows:

§ 404.1075 Members of certain religious groups opposed to insurance.

(b) Your application must be filed under the rules described in 26 CFR 1.1402(h). An application must contain or be accompanied by the applicant's waiver of all benefits and payments under title II and part A of title XVIII of the Act. See § 404.305 for the effect of the filing of the waiver and the granting of the exemption.

(d) Your application for exemption will be approved by the Internal Revenue Service only if no benefit or other payment under title II or part A of title XVIII of the Act became payable or, but for section 203 or section 222(b) of the Act, would have become payable, to you or on your behalf at or before the time of the filing of your application for exemption.

(e) The tax exemption ceases to be effective for any taxable year ending after the time you do meet the requirements of paragraph (a) of this section or after the time the religious sect or division of the sect of which you are a member is found by us to no longer meet the requirements of paragraph (c) of this section. If your tax exemption ceases to be effective, your waiver of the right to receive Social Security and Medicare part A benefits will also no longer be effective. Benefits may be payable based upon your wages for and after the calendar year following the calendar year in which the event occurred upon which the cessation of the exemption is based. Benefits may be payable based upon your self-employment income for and after the taxable year in which the event

occurred upon which the cessation of the exemption is based.

[FR Doc. 91-12488 Filed 5-24-91; 8:45 am]

BILLING CODE 4190-29-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-595, RM-6433]

Television Broadcasting Services; Casper and Sheridan, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of.

SUMMARY: The Commission denies the petition for rule making filed by Jessica Longston for reallocation of VHF Television Channel 9 from Sheridan to Casper, Wyoming, as that community's fifth commercial television service. See 54 FR 3823, January 26, 1989. It is Commission policy not to reallocate a channel in which interest has been expressed, absent a sufficient reason, and we find that petitioner has failed to provide sufficient reason. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-595, adopted May 14, 1991, and released May 22, 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.

List of Subjects in 47 CFR Part 73

Television broadcasting.
Federal Communications Commission.

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

[FR Doc. 91-12544 Filed 5-24-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-30; RM-7191, RM-7361]

Radio Broadcasting Services; Rock Island, Moses Lake, and Warden, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: This document dismisses, at the request of KXA Radio Corporation, its petition for rule making requesting substitution of Channel 258A for Channel 258C3 at Rock Island, Washington, the modification of Station KXAA(FM)'s permit to specify operation on the higher powered channel, the substitution of Channel 242A for Channel 257A at Moses Lake, Washington, and the modification of

Station KDRM(FM)'s license accordingly (RM-7191). See 55 FR 4886, February 12, 1990. In addition, at the request of Warden Broadcasting Associates, the Commission dismisses its counterproposal requesting the allotment of Channel 242C3 to Warden, Washington (RM-7361). The untimely filed counterproposal of Jon Bruce Thoen to allot Channel 242C3 to Royal City, Washington, will be the subject of a separate Notice of proposed rule making. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-30, adopted May 14, 1991, and released May 23, 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.

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. 91-12543 Filed 5-24-91; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 58, No. 102

Tuesday, May 28, 1991

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

DEPARTMENT OF AGRICULTURE

Grant to Cornell University

AGENCY: Office of International Cooperation and Development (OICD).

ACTION: Notice of intent.

ACTIVITY: OICD intends to award a grant to Cornell University to provide partial funding support for an "International Workshop on Modeling of Grapevine Downy Mildew."

AUTHORITY: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99-198).

OICD anticipates the availability of funds in fiscal year 1991 (FY1991) for partial funding to Cornell University in support of transportation and per diem expenses for attendees at the "International Workshop on Modeling of Grapevine Downy Mildew". Scientists from Australia, Brazil, Canada, France, Italy, Korea, Mexico, Switzerland, and West Germany, as well as the U.S., are expected to attend.

Based on the above, this is not a formal request for application. An estimated \$18,560 will be available in FY1991 as partial project support.

Information on proposed Grant #59-319R-1-008 may be obtained from: USDA/OICD/Administrative Services, Washington, DC 20250-4300.

Dated: May 22, 1991.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 91-12521 Filed 5-24-91; 8:45 am]

BILLING CODE 3410-01-M

Food and Nutrition Service

Food Stamp Program; Electronic Benefit Transfer (EBT) Alternative Issuance Demonstration Projects

AGENCY: Food and Nutrition Service, USDA.

ACTION: General notice.

SUMMARY: This notice announces sites which will be demonstrating the use of on-line Electronic Benefit Transfer (EBT) systems for issuing food stamp benefits and describes the general operating procedures which will be used by all on-line EBT demonstrations. An on-line EBT system is one in which the benefit authorization is completed while the point-of-sale (POS) terminal is in contact with a central computer. The emphasis will be on operating procedures applicable to the Food Stamp Program (FSP). Each project, however, will also use EBT for issuing benefits of other programs.

Four sites were selected through the solicitation process announced in the Department's Notice of Intent published September 18, 1987 in the *Federal Register* (52 FR 35287). The sites were three State agencies: Arizona, New Mexico, and Washington; and one political subdivision: Ramsey County, Minnesota. Arizona and Washington withdrew from the project prior to implementation.

In addition to selecting sites on a competitive basis, the Department issued guidelines in August 1988 for other sites interested in operating on-line demonstrations. Functional and program requirements are the same as for solicited sites. Maryland has been approved to participate under these guidelines. An area within Baltimore County was selected as the pilot site and began operations in November 1989.

The EBT demonstrations will operate under the authority of subsections 17 (a) and (b) of the Food Stamp Act of 1977 (7 U.S.C. 2026 (a) and (b)). These demonstrations are intended to provide the Department with essential information on the impact of electronic issuance technologies on the food stamp issuance, redemption, and reconciliation processes. The operations described herein do not apply to the Mickey Leland Memorial Domestic Hunger Relief Act of 1990 which will make EBT a food stamp issuance alternative April 1, 1992. Proposed regulations regarding that legislation are expected to be published for comment July 1, 1991.

DATES: Comments must be received by July 29, 1991, to ensure consideration.

ADDRESSES: Comments should be submitted to: Jeffrey Cohen, Supervisor, Demonstration Projects Section, Program Design Branch, Program

Development Division, Food Stamp Program, Food and Nutrition Service, USDA, room 718, 3101 Park Center Drive, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION: Jeffrey Cohen, Supervisor, Demonstration Projects Section, Program Design Branch, Program Development Division, Food Stamp Program, Food and Nutrition Service, USDA, room 718, 3101 Park Center Drive, Alexandria, Virginia 22302 (703) 756-3517.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This notice has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been classified not major because the provisions will not result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related notice to 7 CFR part 3015, subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This notice has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). Betty Jo Nelsen, Administrator, Food and Nutrition Service (FNS), has certified that the action will not have a significant economic impact on a substantial number of small entities.

Reporting and Recordkeeping

This notice does not contain reporting and recordkeeping requirements subject

to approval by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

The Reading, Pennsylvania EBT Demonstration

Since the early 1980's, FNS has been experimenting with various means to improve the efficiency and integrity of benefit issuance in the Food Stamp Program. One major effort has been a demonstration project which tested the use of an EBT system in the benefit issuance and redemption process.

In July 1983, FNS contracted for demonstration of an EBT system in cooperation with State and local food stamp authorities, retailers, and financial institutions. The system began operating in October 1984 in Reading, Pennsylvania. It served an average food stamp caseload of about 3,400 households, who made over 25,000 electronic food purchases in about 125 retail food stores each month. The initial demonstration ended in December 1985; the Pennsylvania Department of Public Welfare (PDPW) subsequently assumed responsibility for extended demonstration project operations.

In parallel with that demonstration, FNS contracted for an evaluation of the demonstration in June 1983. The evaluation's main objective was to compare the EBT system to the coupon-based issuance and redemption procedures previously used in Reading. The evaluation measured the difference between the two systems in terms of their administrative cost, their vulnerability to benefit loss and abuse, and their impacts on participating food retailers, food stamp recipients, and financial institutions. In the EBT demonstration, recipients had magnetic-stripe plastic cards and computerized accounts at the EBT Center. When certified eligible for benefits, food stamp recipients received an EBT card, training on how to use it, and selected a secret four-digit personal identification number (PIN). Benefits were electronically deposited in each household's account. Once benefits were posted to accounts, recipients used them to buy food in any store participating in the demonstration.

All retailers authorized to participate in the Food Stamp Program and located within a five-mile radius of central Reading were eligible to take part in the demonstration, and virtually all of them participated. Checkout counters were equipped with point-of-sale (POS) terminals. To buy food with EBT benefits, the recipient presented the EBT card to the cashier, who passed it

through the POS terminal's card reader. The recipient keyed in his or her PIN, which was verified within the terminal. The cashier then entered the amount of the purchase. The terminal made a dial-up connection with the EBT Center computer, which checked the recipient's account, debited it for the amount of the purchase, credited the retailer's account, and sent an authorizing message back to the store terminal. The terminal printed receipts for the recipient and retailer showing the purchase amount and the remaining balance in the food stamp account.

Once a day, the EBT Center totalled all retailer credits. Center staff then initiated an electronic funds transfer process, using the Automated Clearinghouse (ACH) network operated by the Federal Reserve. Retailer's bank accounts were credited for their food stamp sales the following business day.

The evaluation results compiled by the contractor are as follows:

(1) The EBT system was found to be operationally feasible. It worked, and was well received by the various parties involved in its use.

(2) Retailers prefer the EBT system to coupons, primarily because it reduces the post-sale handling effort required for coupons.

(3) Recipients prefer the EBT system to coupons—they found it easier to use and spent less time and money (making a special trip to obtain coupons) than they previously had spent to obtain coupons.

(4) Banks strongly prefer the EBT system because their role as issuance agents is eliminated and their costs for handling and redeeming food stamp benefits are substantially reduced.

(5) By eliminating cash change, an EBT system directs all food stamp benefits to food purchases.

(6) Due to the short duration of project operations and inherent measurements difficulties, the impact of the EBT system in reducing fraud and abuse was generally unmeasurable.

(7) EBT system costs exceeded Authorization-to-Participate (ATP) coupon costs by about 9:1. This was primarily due to a combination of high operating costs, resulting from the use of dedicated staff and equipment, and a small demonstration caseload (fixed costs were averaged over a relatively small number of households).

(8) EBT operating costs could be reduced by increasing the size of the caseload, integrating the system either with other assistance programs or commercial POS systems, purchasing rather than leasing equipment, and/or operating the system in a routine setting,

i.e., an on-going, non-demonstration setting.

(9) Integrated systems offer the most promise for reducing program costs because system costs can either be spread over a larger number of users or more organizations can share in such costs. Integration can be accomplished by developing a combined EBT system which would merge food stamps and other benefit programs operated by the State, e.g., Aid to Families with Dependent Children (AFDC) and General Assistance (GA). Alternatively, the food stamp EBT system could be "piggybacked" onto a commercial POS system, becoming one of multiple users.

In January 1986, PDPW assumed responsibility for the extended EBT demonstration project. During the extension, PDPW first took over administration of the contract and then took over operation of the project using the original computer equipment. In the current third stage, PDPW is operating the system on its larger multi-purpose State computer equipment and is sharing processing resources with other programs. System enhancements which have accompanied this phase have improved the system's service to both recipients and retailers.

The evaluation of the EBT extension assesses the costs and benefits of the extension on major constituencies. e.g., FNS, State and local Food Stamp Program administrators, recipients, food retailers, and financial institutions. The final report (which was published in early 1990) also describes State agency procedures for assuming operational responsibilities. This information will assist FNS in making decisions regarding the future of EBT in the Food Stamp Program.

Evaluation results include:

(1) The administrative costs of the redesigned EBT system exceed those of the ATP/coupon system. These costs however, are substantially lower than the administrative costs during the original demonstration project. EBT costs were reduced from more than \$27 a case month to a little over \$9 a case month. The latter is still three times the cost of the ATP coupon system.

(2) Total vulnerabilities to benefit loss and diversion are lower under the EBT system.

(3) Inadequate controls on system accessibility to those who would attempt to violate computer security can increase the potential for losses to the Food Stamp Program.

(4) Retailers' costs to participate in the Food Stamp Program are lower with the redesigned EBT system than with coupons.

(5) A large majority of retailers support the redesigned EBT system.

(6) Recipients continue to overwhelmingly prefer the EBT system over the ATP/coupon system.

(7) Recipients' costs of participation in the Food Stamp Program remain considerably lower in the EBT system than in the coupon system.

(8) Banks have lower participation costs under the EBT system and prefer it to the ATP/coupon system.

New EBT Demonstration Projects

Solicited Sites

Based on the results of the Reading demonstration, the Department published a Notice of Intent in the *Federal Register* on September 18, 1987 (52 FR 35287) soliciting concept papers for EBT systems. Thirteen concept papers were received from State and local agencies by the deadline of November 17, 1987. Of these, nine were selected to submit full proposals by July 5, 1988. This deadline gave the nine agencies 6 months to select a vendor and develop a proposal for an EBT system. FNS selected four of the nine agencies as demonstration sites and chose the cooperative agreement as the funding mechanism to ensure substantial FNS involvement in the development, management, and/or oversight of each project. Two of the sites have since dropped their EBT projects—Arizona early on in the development process and Washington prior to implementation of their system. The two remaining sites are: (1) Ramsey County, Minnesota (St. Paul); and (2) New Mexico—Bernalillo County (Albuquerque).

Grants were awarded through cooperative agreements to the remaining two sites. These grants provided 100 percent Federal funding for the costs of project design, development, and implementation up to the approved budget amount. Ongoing operational costs will be reimbursed at the normal 50/50 match rate, with Federal costs capped at per-case-month cost associated with each site's coupon issuance system.

A major emphasis in the solicitation process was for sites to achieve a cost-effective EBT system, i.e., EBT costs should be equal to or less than the costs of the site's coupon issuance system. The solicited sites took into account the Reading evaluation finding that integrated systems offer the most promise for reducing program costs; they contracted with vendors who designed their EBT systems in accordance with the third EBT system configuration described in the September 18, 1987

Notice of Intent (52 FR 35287). This configuration is an EBT/cash benefit card system, where a single card provides access to food stamp benefits, AFDC, GA, and/or other benefits, and the EBT system is tied, at least in part, to existing commercial networks. Food stamp benefits will be separately identified to preserve their use for eligible food purchases at authorized stores.

The new solicited demonstration projects are being conducted in four phases with progress from one phase to the next conditioned by a "GO/NO GO" decision from FNS. Phase I is the design stage of the demonstration, phase II is the development of that design and completion of a successful functional test of the system, phase III is system implementation, and phase IV is the actual operation of the system. Implementation is scheduled to begin in 1990 with full operations following soon thereafter.

The contract for evaluating the solicited sites has been awarded to Abt Associates of Cambridge, Massachusetts. The final evaluation report is due in 1992. The report will present the study findings on:

- (1) The process of implementing the demonstration systems;
- (2) Comparisons of EBT costs to coupon costs and EBT costs between sites;
- (3) Impacts of EBT systems for demonstration participants (e.g., recipients, retailers, financial institutions); and
- (4) The feasibility of extending EBT on-line system technology and/or variations of it to a non-demonstration setting.

Unsolicited Sites

FNS issued guidelines in the Summer of 1988 to allow additional sites to test EBT. There is currently one unsolicited on-line EBT system implemented in the Park Circle district of Baltimore, Maryland. This unsolicited site has also utilized a multibenefit approach whereby a single card provides access to food stamps, AFDC, GA, and other benefits. The system also provides the capacity for future commercial use. Maryland began staggered implementation in November 1989 and achieved full implementation of its pilot in February 1990. Maryland plans to expand Statewide should the pilot prove successful.

Many other State agencies are also expressing interest in implementing unsolicited on-line EBT projects and FNS expects that additional systems will be designed and implemented in the next couple of years.

EBT as an Operational Alternative

The Mickey Leland Memorial Domestic Hunger Relief Act of 1990, signed into law on November 28, 1990, requires the Department of Agriculture to publish guidelines for approval of EBT systems as operational alternatives for all States. As required by the Act, these guidelines must be effective by April 1, 1992.

General Procedures

In accordance with the general notice requirements of 7 CFR 282.5, FNS is providing the following description of the operational procedures for the on-line EBT demonstration projects. These procedures apply only to current and future demonstration projects and are not intended to cover provisions for EBT issuance contained in the Mickey Leland Memorial Domestic Hunger Relief Act of 1990.

All food retailers within the demonstration sites will be eligible to participate in the demonstration. Surveys on recipient shopping patterns will be conducted to determine the need for extending retailer participation beyond the geographical boundaries of the demonstration sites.

Currently operating and/or newly authorized retailers will be permitted to begin participating in the EBT project at any time during the project. If participating retailers have no EBT business during a reasonable period of time, FNS reserves the right to have site vendors remove the POS equipment if it was purchased or leased with FNS funds. In such a situation, the retailer will be notified in writing that the equipment will be removed.

Retailer appeals of the above action would follow the procedures of 7 CFR part 278. If at any time following the removal or denial of FNS purchase equipment, a retailer presents to FNS or the State agency demonstrable proof that it is losing food stamp business as a result of its exclusion from the demonstration, the equipment may be returned to that retailer provided the EBT demonstration is still in operation. All retailers participating in the demonstration will continue to accept food stamp coupons from recipients living outside the demonstration area.

Food stamp households living within the demonstration sites will use a single magnetic stripe benefit card and PIN, instead of food coupons, to buy eligible food. Each recipient will select or receive a PIN at the time of card issuance and EBT system training. Cash assistance households will use the card to access cash benefits from Automated

Teller Machines (ATMs) or POS terminals. The card and PIN will access food stamp benefits through POS devices. It is intended that only household members or authorized representatives be able to access benefits through the system.

Eligible households will continue to be certified according to the standard procedures of each site with changes in the issuance process taking place as EBT is implemented. Under EBT, mail issuance and ATP transactions will no longer be necessary. Households will go to the certifying agency or office of the site's vendor upon notice of initial certification. Recipients will be trained on the EBT system prior to initial receipt of their benefits. The State agency will be responsible for issuing the benefit card. The actual issuance of benefits will take place when the household's dollar value of benefits is electronically loaded into the household's computer file at the EBT Center. At that point, the benefits will be available for use by the household at the retailer. Households will be notified in advance for the exact date regular monthly benefits will be available. For each month's issuance, the same card will be used and additional visits to the certification office for issuance purposes will not be necessary.

In all sites, a household member will need to establish that he/she is entitled to use the benefit card before a purchase can be made. An eligible recipient or authorized representative will establish his entitlement by presenting to the store clerk an EBT benefit card and entering a proper PIN on the POS device's PIN pad. The PIN will be verified through an on-line link-up with the main EBT computer system or through the POS device and PIN offset. Following verification that the account has a sufficient balance to cover the purchase, the household's computer file will be updated to reflect the purchase. A receipt, documenting the purchase amount and the account balance after the purchase, will be printed for the purchaser. A copy of this receipt will be retained by the retailer to document each EBT transaction.

Each system will display an error message if the PIN has been entered incorrectly. Recipients will have the opportunity to reenter their PIN correctly, but the system may limit the number of re-entry tries. Training will emphasize the importance of the PIN by instructing recipients to record it in a secure but accessible place. Recipients will be instructed on who to call or where to go to resolve any problems they have with the EBT system.

More than one transaction will be required if a recipient wants to use cash assistance benefits and/or cash in addition to food stamp benefits when making a purchase. For example, when there are insufficient funds in the food stamp account to make the entire purchase, the EBT system will print out the amount of available funds in the account. If the required dollar difference is available from another of the recipient's benefit accounts (e.g., AFDC), the recipient can first initiate a transaction to debit the food stamp balance and then initiate a further transaction to debit the difference from another account. In situations where the use of other benefits is not available or desired, the recipient may pay the difference in cash or have the cashier debit no more than the maximum of the food stamp account balance to cover a smaller purchase. Recipients will be able to observe and verify the purchase amount as the cashier enters it into the system.

An on-line, manual transaction is required when an EBT card is defective. In this situation, most sites require that the card number and PIN be entered manually, and the store manager verify card possession and enter a password in the POS device. Unlike other manual transactions, no manual voucher or signature will be required since the transaction will be processed on-line.

Occasionally, off-line, manual transactions are necessary, either when equipment fails at an individual retail store or when the site's host EBT system fails. In either situation, cashiers will use three-part manual transaction forms, resembling those used for credit card purposes, to copy down information from the benefit card, verify the purchaser's signature against the signature on the EBT benefit card, register the purchase with the EBT Center, and obtain an authorization number. Upon completion of the transaction, the retailer and the household will each retain a portion of the voucher, and the third portion will be sent to the EBT vendor.

In some project areas, credit to the retailer's account will occur when the EBT center receives its portion of the voucher. In other project areas, the retailer will receive immediate credit but have their account debited if the supporting voucher is not received by the EBT center within an established period of time (e.g., 7 days). If a manual transaction is necessary because of retailer equipment failure and the retailer wishes to accept the transaction, the retailer will telephone the EBT Center to obtain authorization for

approval of the purchase. The operator will verify that there are sufficient funds in the household's benefit account to cover the purchase, debit the account to reflect the purchase, and issue an authorization number to the cashier to be recorded on the sales slip.

In the event of EBT host system failure, the purchase limit established by the site will go into effect. Computer system failure is anticipated to be a rare occurrence because of the built-in redundancy in each site's system. That is, should the main computer malfunction, there is a back-up database available to support operations. However, should failure occur, the retailer will need to call the EBT Center for authorization. The Center personnel will then check the latest available balance on the latest balance report and note the transaction amount for later posting. A manual voucher is also required in the situation.

In some sites when telephone lines are inoperable, making telephone authorization impossible, retailers may complete transactions manually at their own risk. However, if phone lines are out of service or if the host computer is down and a retailer accepts a purchase for which there are insufficient benefits in the household's account, the retailer may be allowed to represent the transaction for payment in the month following the transaction month. If representation is permitted, the representation limits are \$50 for the first month following the insufficient funds transaction, and the greater of 10 percent of the household's monthly allotment or \$10 for each month thereafter until the manual purchase is repaid. If there is more than one insufficient funds transaction in a given month, there is still only one opportunity for the \$50 limit and the 10 percent or \$10 limit still holds in subsequent months.

Sufficient notice must be provided for re-presentation to take place. First, the manual voucher must include a notification to the household that re-presentation could be made if there is an insufficient balance in the recipient's account to cover the manual transaction. Second, if a re-presentation is to be made, the household must be notified of the re-presentation in advance of the date that the recoupment would occur. Notification must be sent for each insufficient funds transaction.

Retailers who, as a matter of course, do not have immediate access to telephones when they collect payment for purchases will be accommodated by a form of the manual back-up system. These retailers include stationary food

stores which opt to make home deliveries to food stamp households and retail route vendors which operate on standing orders from customers, such as those retailers which deliver milk and bread. Either before the delivery or upon returning to the store, the retailer shall telephone the EBT Center to log the transaction and obtain an authorization number, as is done with back-up transactions for equipment failure. The retailer shall complete the three-part manual transaction form at the home to document the transaction and leave one with the household for their record. To be eligible for using the back-up system under these circumstances, retailers must indicate at the time they are equipped for EBT transactions or at some time prior to making the first delivery transaction that they intend to offer home deliveries.

There shall be no limit on the purchase amount for either home deliveries or retail route vendors operating on standing orders. In either of these transactions, however, FNS shall not assume liability for unpaid amounts if households have insufficient benefits in their benefit accounts to fully settle the debt. Retailers may perform preliminary verification of a household's account balance by calling the EBT Center prior to or at the time of making a home delivery. As with other transactions, the retailer would retain liability for each transaction until the EBT Center provides an authorization number. As route purchases occur throughout the course of a month and are seldom of a one-time-only nature, vendors may do a cumulative debit to the household's account once a month.

Due to the nature of the EBT system, cash change for purchases will not be necessary and will be eliminated. The recipient's unused benefits will remain stored in the household's computer file awaiting the next purchase.

If a household loses its benefit card or has it stolen, the household needs to report this as soon as possible via each site's 24-hour, toll-free telephone number. The EBT Center will then identify the card as lost or stolen in the EBT system's computer, which will promptly block the card from being used to access the household's benefit account. Generally, lost or stolen cards will be replaced within one business day if the recipient of record (head of household) provides proof of his/her identity. The EBT Center will update the benefit account to permit use of the new card for benefit access. If the household finds the lost or stolen card after receiving a new card, the old card should be returned to the certification

office which will see that it is destroyed. If any benefits which were in the account at the time the card was lost or stolen are drawn from the account before access to the account could be blocked, those benefits will be treated as lost and shall not be replaced. Once benefits have been issued to the household (i.e., posted on the household's file at the EBT Center), the household will be responsible for those benefits.

If a card becomes damaged to the extent that it is not accepted by the EBT system, the household should also use the 24-hour, toll-free telephone number to report this problem. The same procedures for replacement of a lost or stolen card apply to damaged cards.

The EBT redemption process will differ from the current process by using electronic funds transfer technology for payment in lieu of the current coupon cycle used by financial institutions and the Federal Reserve. Financial institutions and the Federal Reserve will no longer be processing coupons. The information generated by the on-line interaction between the cashier and the computer system will be used to develop payment tapes to initiate payments to the financial institutions of the respective retailers. Consequently, this system will entail different roles and/or procedures for retailers, wholesalers, financial institutions and the Federal Reserve than those provided in 7 CFR part 278. For purposes of applying the requirements and sanctions of 7 CFR part 278.6 to these demonstrations, food stamp benefits in the EBT demonstration shall be the equivalent of coupons.

EBT systems in all sites must permit reconciliation and reporting at each point in the issuance cycle. The audit trail must be able to establish when and where benefits were transacted.

The final reporting will be able to reconcile those benefits issued with those benefits redeemed by households at the retailers as well as with payments made by FNS to retailers through the Federal Reserve system. Since EBT systems will not use coupons, the coupon production, inventory storage and management, and destruction requirements will not be necessary. Security will be maintained through measures tailored to on-line computer systems and communications. Coupons will continue to circulate within the test area since retailers within the test area will continue to accept coupons from households living outside the test area. These coupons will continue to be processed as required by 7 CFR part 274.

Special Food Stamp Requirements

The EBT system shall maintain the level and quality of service to participants that is mandated by law and program regulations. If there is no way to avoid a conflict with basic program requirements, any deviations necessary to successfully accomplish project implementation must be described and waivers of requirements, where necessary to implement the design, must be requested. Specific FNS approval of such waivers will be required.

The State or local agency shall consider and fully address the following items in the design of the EBT demonstration system, the operation of the EBT system, and the possible transition to a broader EBT system implementation.

Recipient Access

The EBT system shall provide for minimal disruption of recipients' access to retail outlets since recipient access is a critical element of the FSP. All authorized retailers within the project area must be afforded the opportunity to participate in the project. If all authorized stores which choose to participate are not equipped with on-line POS devices, an alternate method to accept client benefits must be established. The alternate method cannot be burdensome on either the participant or the retailer. Recipients residing inside the project's boundary should be able to shop at nearby stores even though the store may be outside the project area.

Equal Treatment

The EBT system shall maintain equal treatment for food stamp recipients. A strategy for avoiding unequal treatment and negative impacts on food stamp transaction time must be developed by each site.

The Department does not believe it is necessary to equip every grocery store lane with a POS device. However, two principles must be adhered to when less than all lanes are equipped. First, the lanes themselves must not be designated in a fashion which would readily identify users of the lane as food stamp recipients. A fundamental part of this principle is that the lane not be one that non-food stamp shoppers would avoid. In other words, it will not be acceptable to establish special lines which are only for food stamp recipients. However, if special lines are established for check cashers or holders of other debit/credit cards, food stamp customers could also be assigned to such lines. The second principle is that

POS equipped lanes cannot be measurably longer, on a regular basis, than other lanes in the stores. Enough POS devices must be available to avoid lane backup at those times of the month when benefits are issued. The latter can be achieved by taking into consideration both food stamp issuance dates and redemption levels of the stores. If cash benefits are to be issued, the volume of this type of transaction must also be considered.

If a strategy cannot be developed that ensures adherence to these principles without equipping all lanes with POS devices, the Department will require full equipping.

Knowledge of Allotment Balance

Households need to know their account balance in order to plan purchases. The EBT system shall provide recipients with informational access to the system without their having to make a purchase or stand in a check-out line. This may be accomplished by an Audio Response Unit or a balance only terminal. Recipients must also receive information about their account balance at the time of food purchases.

Retention of Remaining Monthly Balance

The EBT system shall allow for the carry-over from month-to-month of accumulated balances of household benefits. However, if household accounts are inactive for a period of time, the State or local agency may arrange to "store" such benefits off-line pending recontact by recipients.

Replacement of Lost, Stolen, or Damaged Cards

The EBT system shall be capable of quickly replacing the benefit card for any household claiming its damage or loss, while ensuring that the household does not obtain more than one account with which to access the system. Similarly, households believing that someone else has unauthorized knowledge of their PIN or code must be able to obtain a new PIN.

Benefit Adjustment

Procedures must be available to restore/debt benefits and sales that have been erroneously debited/credited. Authority for such functions shall be limited to appropriate managers and any corrections must be fully documented.

Expedited Service

Program regulations require that certain types of households demonstrating immediate need be provided benefits in accordance with

the time frames established at 7 CFR 273.2(i) of FSP regulations. The EBT system must provide for the creation of a household benefit account, the production and issuance of identification/benefit cards, and the training on card usage within these specified time frames.

Household Mobility

The EBT system must provide a mechanism to allow households leaving or entering an EBT project area to take their current benefit allotment with them. Benefits must be converted to coupons for those leaving the demonstration area. This provision is intended to accommodate those situations where recipients are permanently or temporarily (vacation, emergency, etc.) re-locating their place of residence.

Project Boundary and Transition Problems

The demonstration site should ideally be a contained grocery shopping area in order to minimize participants shopping out of the test area. If the project area is not a contained area, the State or local agency must allow for recipient shopping in stores which border on the demonstration sites. Decisions about which stores to include should be made in consultation with recipient groups. If the demonstration is phased-in, the State or local agency shall specify how transitional problems will be handled.

Restricted Access to System

The EBT system shall include procedures to limit access to information about recipient households and their benefits. While households and their authorized representatives need easy system access, this need cannot open the system to abuse by retailers, cashiers, or any other persons. The PIN cannot be available for a clerk or others to use in obtaining unauthorized benefits. Similarly, if recipients fail to exhaust the contents of their accounts, unauthorized individuals shall not be able to divert the remaining benefits to their own use.

Issuance of Household Benefit Card

The EBT system shall provide for the separation of certification from issuance and card initialization functions. By substituting the benefit card for other authorizing documents, such as the Authorization To Participate (ATP), access to benefits is more rapid since the intermediate step of ATP exchange for food coupons is removed. Elimination of the ATP, however, makes security of the benefit card more important since it becomes the

authorizing instrument for access to benefits. By having benefit card production and initialization done by an issuance unit employee or staff other than certification unit personnel, no single agency employee or unit will have the ability to both authorize and provide access to the benefit allotments.

Retailer Identification/Clearance

The EBT system shall include a retailer validation check to ensure that only currently-authorized stores can access the system. Stores whose program participation has been withdrawn or disqualified must be denied access immediately, while newly authorized stores must be included in the system as quickly as possible.

System Reliability and Back-up

The reliability of the EBT system is absolutely essential to its success. In contrast to existing credit card or debit card systems, the unavailability of the EBT system, even temporarily, would impose severe hardship on households largely dependent on it for purchasing their food. This may be addressed through full redundancy of critical system components, through a manual back-up system for emergency use, through an alternate mechanism, or through some combination of these. Any system chosen must be fully consistent with FSP security requirements and acceptable to stores.

Applicability to Entire Food Stamp Program on a Larger Scale

The EBT demonstration will originally be implemented in a small-scale environment. However, the design of the EBT demonstration system must be suitable for a larger scale implementation, i.e., in other project areas or jurisdictions, should this later be deemed desirable. Only with the prior approval of FNS, may State or local agencies expand the demonstration.

Integrity

The EBT system shall be designed to ensure its integrity through the separation of responsibilities, data reconciliation, and other safeguards such as encryption, limited access, and security bonding. Points of particular vulnerability in an EBT system include tampering with or creating recipients' accounts, erroneous posting of issuances to recipients' accounts, manipulation of retailers' accounts, and tampering with information on the ACH tape.

Cards

The following language must be included on all EBT cards or on the card jackets: "This is an equal opportunity program. If you believe that you have been the victim of discrimination in your efforts to participate in the Food Stamp Program because of your race, color, national origin, age, sex, handicapped, religion or political beliefs, write immediately to: Administrator, Food and Nutrition Service, 3101 Part Center Drive, Alexandria, Virginia 22302." Also, it is unacceptable to have political party identifiers or names of state officials such as state governors, printed on EBT cards used for food stamp benefits.

Implementation

Implementation of the EBT systems will be phased-in over several months. All sites will stagger implementation of EBT by dividing the sites' caseloads into groups.

Prior to implementation of the demonstration, the following steps shall be taken:

1. Notice will be provided to retailers, formally announcing the project. In each site, the State agency will conduct meetings about the EBT system and secure agreements with each participating retailer.

2. Sites will provide stores with EBT equipment, including POS terminals, electrical and telephone lines and PIN pads. No charge will be made for food stamp-only POS terminals.

3. Training on the new system in each site will be provided for recipients, State agency staff, retailers, financial institutions, and the staffs of community agencies that serve food stamp households.

4. Evaluation plans will be finalized and baseline data collected. At a minimum, each evaluation must:

- (a) Compare the full resource costs of the EBT system to the coupon system it replaces;

- (b) Contrast the impacts of the EBT and coupon systems for each major participant group, e.g., retailers, recipients, and banks; and

- (c) Describe the development and operation of the EBT system.

Department decisions to extend and/or expand any demonstration are contingent on the completion of an approval evaluation and all other criteria specified in this notice.

In addition to food stamps, the specific programs that will provide or authorize benefits via EBT are listed by site as follows:

(1) Ramsey County, Minnesota—AFDC, General Assistance (GA), State

Supplemental Assistance, and Refugee Assistance;

(2) New Mexico—AFDC;

(3) Maryland—AFDC, Public Assistance, GA, and child support grants.

If operations are cost-effective and successful, Maryland plans to begin expanding the EBT system Statewide sometime in the future. Ramsey County plans to begin staggered implementation of its project in 1991. New Mexico began phased implementation of its project in September, 1990, and plans to complete client conversion to the EBT system by September, 1991, with a total of 19 to 20 thousand households. Other states which have submitted EBT demonstration proposals are New Jersey, Iowa and South Carolina. Pennsylvania has proposed to expand its project to additional counties in the State and to add on AFDC.

Dated: May 20, 1991.

Betty Jo Nelsen,

Administrator.

[FR Doc. 91-12440 Filed 5-24-91; 8:45 am]

BILLING CODE 3410-30-M

Soil Conservation Service

Eclet Creek Watershed Project; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Eclet Creek Watershed; De Witt, Guadalupe, Karnes, and Wilson Counties, Texas.

FOR FURTHER INFORMATION CONTACT: Harry W. Oneth, State Conservationist, Soil Conservation Service, 101 South Main, Temple, Texas 76501-7682, telephone (817) 774-1214.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Harry W. Oneth, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control and watershed protection. The planned works of improvement include 11 floodwater retarding structures and technical assistance for land treatment.

The notice of a Finding of a No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to Various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Harry W. Oneth.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

Dated: May 15, 1991.

Harry W. Oneth,

State Conservationist.

[FR Doc. 91-12508 Filed 5-24-91; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis.

Title: Ocean Freight Revenues and Foreign Expenses of United States Carriers.

Form Number: Agency—BE-30; OMB—0608-0011.

Type of Request: Renewal of a currently approved collection.

Burden: 40 respondents; 800 reporting hours.

Average Hours per Response: 5.0 hours.

Needs and Uses: The survey is required in order to obtain comprehensive data concerning United States Ocean Carriers' Freight Revenues and Foreign Expenses. The data are needed primarily to compile U.S. international accounts.

Affected Public: U.S. Ocean Carriers.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Marshall Mills.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room H6622,

14th and Constitution Avenue NW.,
Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 1991.

Edward Michals,
Departmental Clearance Officer, Office of
Management and Organization.

[FR Doc. 91-12476 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis.
Title: Foreign Airline Operators' Revenue and Expenses in the United States.

Form Number: Agency—BE-36; OMB—0608-0013.

Type of Request: Renewal of a currently approved collection.

Burden: 60 respondents; 300 reporting hours.

Average Hours per Response: 5.0 hours.

Needs and Uses: The survey is required in order to obtain comprehensive data concerning Foreign Air Carriers' Revenues and Expenses in the United States. The data are needed primarily to compile U.S. international accounts.

Affected Public: Foreign Airline Companies.

Frequency: Annually.

Respondent's Obligation: Mandatory.
OMB Desk Officer: Marshall Mills.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 1991.

Edward Michals,
Departmental Clearance Officer, Office of
Management and Organization.

[FR Doc. 91-12477 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis.
Title: U.S. Airline Operators' Foreign Revenues and Expenses.

Form Number: Agency-BE-37; OMB—0608-0011.

Type of Request: Renewal of currently approved collection.

Burden: 14 respondents; 224 reporting hours.

Average Hours per Response: 4.0 hours.

Needs and Uses: The survey is required in order to obtain comprehensive data concerning United States Airline Operators' Foreign Revenues and Expenses. The data are needed primarily to compile U.S. international accounts.

Affected Public: U.S. Airline Operators.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Marshall Mills.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 1991.

Edward Michals,
Departmental Clearance Officer, Office of
Management and Organization.

[FR Doc. 91-12478 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis.
Title: Foreign Ocean Carriers' Expenses in the United States.

Form Number: Agency-BE-29; OMB—0608-0012.

Type of Request: Renewal of currently approved collection.

Burden: 130 respondents; 520 reporting hours.

Average Hours per Response: 4.0 hours.
Needs and Uses: The survey is required in order to obtain comprehensive data concerning Foreign Ocean Carriers' Expenses in the United States. The data are needed primarily to compile the U.S. international accounts.

Affected Public: Foreign Carriers' U.S. agents.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Marshall Mills.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 1991.

Edward Michals,
Departmental Clearance Officer, Office of
Management and Organization.

[FR Doc. 91-12479 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Accommodations for Government Observers on U.S. Flag Tuna Purse Seine Vessels.

Form Number: No form; OMB-0648-0208.

Type of Request: Request for extension of the expiration date of a currently approved collection without any change in the substance or method of the collection.

Burden: 2 respondents; 4 reporting hours; average hours per response—2 hours.

Needs and Uses: NOAA has issued regulations establishing basic living accommodations for observers on board U.S. tuna vessels and the minimum adjustments required on vessels carrying female observers when the crew are all males. A possible exemption to carrying females is provided as part of

applying for a vessel certificate of inclusion.

Affected Public: Businesses or other for profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ronald Minsk, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-12480 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Recreational Billfish Reporting Logs.

Form Number: No form number assigned; OMB-0648-0031.

Type of Request: Request for revision of a currently approved collection.

Burden: 307 respondents; 480 reporting hours; average hours per response—.02 hours.

Need and Uses: Collection of catch/effort information on Atlantic billfish is necessary to enable scientists and resource managers to estimate billfish catches and to track changes in abundance in order to determine status of stocks and avoid over-fishing.

Affected Public: Individuals, small business or organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ronald Minsk, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW.,

Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-12481 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of Export Administration

Computer Systems Technical Advisory Committee; Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee (CSTAC) will be held June 19 & 20, 1991, in the Herbert C. Hoover Building, room 1617F, 14th Street & Pennsylvania Avenue NW., Washington, DC. The CSTAC advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to computer systems, peripherals and technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377-2583.

Dated: May 21, 1991.

Betty Anne Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 91-12482 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-588-819]

Initiation of Antidumping Duty Investigation: Aspheric Ophthalmoscopy Lenses From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether aspheric ophthalmoscopy lenses from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, or the establishment of an industry in the United States is being materially retarded, by reason of imports from Japan of aspheric ophthalmoscopy lenses. The ITC will make its preliminary determination on or before June 14, 1991. If that determination is affirmative, we will make a preliminary determination on or before October 7, 1991.

EFFECTIVE DATE: May 28, 1991.

FOR FURTHER INFORMATION CONTACT:

Kate Johnson or James Terpstra, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-8830 or 377-3965, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On April 30, 1991, we received a petition filed in proper form on behalf of Volk Optical, Inc., a manufacturer of aspheric ophthalmoscopy lenses in the United States. In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioner alleges that imports of ophthalmoscopy lenses are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, or the establishment of an industry in the

United States is being materially retarded, by reason of imports from Japan of aspheric ophthalmoscopy lenses.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(E) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

U.S. Price and Foreign Market Value

Petitioner based its estimates of U.S. price on actual prices offered to U.S. distributors for several types of aspheric ophthalmoscopy lenses. Petitioner made no adjustments to the F.O.B. factory prices.

Petitioner's estimate of foreign market value is based on actual retail prices offered in Japan for several aspheric ophthalmoscopy lenses. Petitioner reduced the retail price by 25 percent to arrive at the price offered to Japanese distributors. The terms of the Japanese prices were F.O.B. factory; therefore, no deductions were made to the wholesale price.

Based on a comparison of U.S. price and foreign market value, petitioner alleges dumping margins ranging from 0.5 to 158 percent.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioner supporting the allegations.

We have examined the petition and found that it complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of aspheric

ophthalmoscopy lenses from Japan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by October 7, 1991.

Scope of Investigation

The products covered in this investigation are aspheric ophthalmoscopy lenses, which are single element non-contact ophthalmoscopic lenses, whether mounted or unmounted, framed or unframed, of which one or both surfaces are aspherical in shape. The subject merchandise is classifiable under subheading 9018.50.00 of the *Harmonized Tariff Schedule* (HTS). HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 14, 1991, whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of aspheric ophthalmoscopy lenses. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: May 20, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-12539 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-357-007]

Carbon Steel Wire Rod From Argentina; Preliminary Results of Antidumping Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the respondent, the Department of Commerce is conducting an administrative review of the antidumping duty order on carbon steel wire rod from Argentina. The review covers shipments of this merchandise to the United States from one exporter during the period November 1, 1988 through October 31, 1989. As a result of this review, the Department has preliminarily determined that dumping margins do not exist. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 28, 1991.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Alain Letort, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793 or telefax (202) 377-1388.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 1984, the Department of Commerce ("the Department") published an antidumping duty order on carbon steel wire rod from Argentina in the *Federal Register* (49 FR 46180). On November 9, 1989, we published in the *Federal Register* a notice of opportunity to request an administrative review of this order (54 FR 47101). On November 21, 1989, a certain exporter of the subject merchandise requested an administrative review of this order. We initiated the review, covering the period beginning on November 1, 1988 and ending on October 31, 1989, on December 29, 1989 (54 FR 53669). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act"). This review covers shipments made by one exporter of wire rod from Argentina to the United States. The exporter covered by this review is Acindar Industria Argentina de Aceros S.A. ("Acindar").

Scope of the Review

The United States has developed a system of tariff classification based on

the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted from the Tariff Schedules of the United States, Annotated (TSUSA) to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption, on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of carbon steel wire rod. Until January 1, 1989, this merchandise was classifiable under item number 607.1700 of the TSUSA. This merchandise is currently classifiable under HTS item numbers 7213.20.00, 7213.31.30, 7213.49.00, 7213.39.00, 7213.41.30 and 7213.50.00. As with the TSUSA numbers, the HTS numbers are provided for convenience and customs purposes. The written product description remains dispositive.

United States Price

In accordance with section 772(b) of the Act, we based United States price on purchase price, because the merchandise was sold to unrelated purchasers in the United States prior to its importation. We calculated purchase price based on f.o.b., stowed value, packed prices to U.S. customers. We made deductions from purchase price, where appropriate, for brokerage, foreign inland freight, stowage, banking expenses, and certain export duties (foreign currency tax, statistical tax, National Commercial Fleet Fund tax, and additional export duties).

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we calculated foreign market value based on C & F prices to unrelated purchasers in Chile because Acinda had insufficient sales of the subject merchandise in the home market during the period of review. Petitioners have alleged that sales in the third-country market were made at prices below the cost of producing the merchandise. We compared Acinda's sale prices to Chile to Acinda's production costs during the month of sale; as a result of our analysis, we have no reasonable grounds to believe or suspect that sales to Chile were made at prices below the cost of producing the merchandise.

We made deductions to foreign market value, where appropriate, for brokerage, foreign inland freight, stowage, banking expenses, and certain export duties (foreign currency tax,

statistical tax, National Commercial Fleet Fund tax, and additional export duties). In order to adjust for differences in packing between the two markets, we deducted packing costs on sales to Chile and added packing costs on sales to the United States. In accordance with section 773(a)(4)(C) of the Act, we made an adjustment to foreign market value to account for differences in the physical characteristics of the merchandise, since the merchandise sold in the third-country market is not identical to that sold in the United States.

Preliminary Results of the Review

As a result of our comparison of the United States price to foreign market value, we preliminarily determine that the following dumping margin exist:

Manufacturer/producer/exporter	Margin
Acindar.....	0%
All Other Manufacturers/Producers/Exporters.....	0%

Pursuant to section 751 of the Tariff Act of 1930 the cash deposit requirement established in the previous review will remain in effect until publication of the final results of this administrative review, at what time the Department will issue appropriate appraisal and deposit instructions to the Customs Service based on the final results of this review. That cash deposit rate is 119.11%.

Public Comment

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested parties may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this preliminary notice or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing. This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act [19 U.S.C. 1675(a)(1)] and section 353.22 of the Commerce Department's regulations 19 CFR 353.22.

Dated: May 21, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc 91-12540 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-406]

Certain Round Shaped Agricultural Tillage Tools From Brazil; Preliminary Results of Countervailing Duty Administrative Review

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

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

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain round shaped agricultural tillage tools from Brazil. We preliminarily determine the net subsidy to be 0.25 percent *ad valorem* for one firm and 1.15 percent *ad valorem* for all other firms for the period January 1, 1989 through December 31, 1989. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: May 28, 1991.

FOR FURTHER INFORMATION CONTACT:

Anne Driscoll, Elizabeth Levy or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5260.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1990, the Department of Commerce (the Department) published in the *Federal Register* a notice of "Opportunity to Request Administrative Review" (55 FR 40931) of the countervailing duty order on certain round shaped agricultural tillage tools from Brazil (50 FR 42743; October 22, 1985) for the period January 1, 1989 through December 31, 1989. On October 31, 1990, Marchesan S.A. requested an administrative review for that period. We initiated the review on December 10, 1990 (55 FR 50739). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). The final results of the last administrative review of this order were

published in the Federal Register on April 18, 1991 (56 FR 15862).

Scope of Review

Imports covered by this review are shipments of certain round shaped agricultural tillage tools (discs) with plain or notched edge, such as colters and furrow-opener blades. During the review period, such merchandise was classifiable under item numbers 8432.21.00, 8432.29.00, 8432.80.00 and 8432.90.00 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 periods January 1, 1989, through December 31, 1989 and nine programs.

Analysis of Programs

(1) CACEX Preferential Working Capital Financing for Exports

Under this program, the Department for Foreign Commerce (CACEX) of the Banco do Brasil provides short-term working capital financing to exporters at preferential rates. The loans have a term of one year or less.

On May 2, 1985, Resolution 1009 made CACEX working capital financing available through commercial banks at prevailing market rates, with interest due at maturity. It authorized the Banco do Brasil to pay the lending institution an "equalization fee," or rebate, of up to 15 percentage points of the commercial interest rate, which the lending institution could pass on to borrowers. In addition, the IOF (a general tax on financial transactions) does not apply to these loans.

Since the interest charged on CACEX export financing under Resolution 1009 is at prevailing market rates, this program would not be countervailable absent the equalization fee and the exemption from the IOF. Therefore, the interest differential for those loans is equal to the equalization fee plus the 1.5 percent IOF. Because this program only provides financing at preferential rates to exporters, we preliminarily determine that it is countervailable.

We consider the benefit from loans to occur when the borrower makes the interest payments. During the review period, three agricultural tillage tool exporters made interest payments on CACEX loans. For those loans, we multiplied the interest differential by the loan principal. We allocated the result over each firm's total exports and then weight-averaged the benefits by each firm's share of exports of the subject merchandise to the United States. On this basis, we preliminarily determine

the benefit from this program to be 0.25 percent *ad valorem* for Semeato, and 0.22 percent *ad valorem* for all other firms for the period January 1, 1989 through December 31, 1989.

This program was terminated, effective August 30, 1990, by Central Bank Resolution 1744. For purposes of the cash deposit of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero for all firms.

(2) Income Tax Exemption for Export Earnings

Under this program, exporters of agricultural tillage tools are eligible for an exemption from income tax on the portion of their profits attributable to exports. The exporter calculates the tax-exempt portion of profit based on the ratio of export revenue to total revenue. Because this program provides tax exemptions that are limited to exporters, we preliminarily determine that it is countervailable.

The nominal corporate tax rate in Brazil in 1989 was 30 percent. However, Brazilian tax law permits all companies to reduce their income taxes by investing up to 26 percent of their tax liability in specified companies and funds. These tax credits effectively reduce the nominal 30 percent corporate tax rate. The four agricultural tillage tool exporters that claimed this exemption on their tax returns filed in 1989 invested in the specified companies and funds, and their effective tax rate was lower than the nominal 30 percent rate during the period of review.

We calculated the effective tax rate for each firm by dividing the net tax liability by taxable profit. We calculated the benefit by multiplying the amount of tax-exempt profit by the effective tax rate and allocating the result over each firm's total exports. We then weight-averaged the benefits by each firm's share of exports of the subject merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be zero for Semeato, and 0.93 percent *ad valorem* for all other firms for the period January 1, 1989 through December 31, 1989.

Decree Law 8034 of April 12, 1990 eliminated this tax exemption and established a prevailing tax rate of 30 percent for domestic and export earnings for year of assessment 1991 (year basis 1990). For purposes of the cash deposit of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero for all firms.

(3) Other Programs

We also examined the following programs and preliminarily determine that the exporters of the subject merchandise did not use them during the review period:

- A. Preferential Export Financing under CIC-OPCRE of the Banco do Brasil
- B. Preferential Financing for Industrial Enterprises by the Banco do Brasil (FST and EGF loans)
- C. Reductions of Taxes and Import Duties under Decree Law No. 77.065 through BEFIEIX and CIEIX
- D. Preferential Financing for National Trading Companies under Resolution 883 of the Banco Central do Brasil
- E. Accelerated Depreciation for Brazilian-Made Capital Goods
- F. Preferential Financing under Resolution 68 and 509 through FINEX
- G. Preferential Financing under FINEP

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 0.25 percent *ad valorem* for Semeato, and 1.15 percent *ad valorem* for all other firms for the period January 1, 1989 through December 31, 1989. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

Therefore, the Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from Semeato, and to assess countervailing duties of 1.15 percent of the f.o.b. invoice price on all other shipments of the subject merchandise exported on or after January 1, 1989 and on or before December 31, 1989.

Further, the Department intends to instruct the Customs Service to waive the collection of cash deposits of estimated countervailing duties on all shipments of the subject merchandise from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the

scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e). Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under § 355.38(c), are due. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: May 17, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-12541 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's (Council) Anchovy Advisory Subpanel and Plan Development Team, will hold a public meeting on June 24, 1991, beginning at 10:30 a.m., at the National Marine Fisheries Service, Southwest Regional Office, 300 South Ferry Street, Terminal Island, CA.

The agenda includes a review of last season's fishery, the 1991 spawning biomass estimate, and the proposed quotas for the 1991-1992 fishery. The process of amending the anchovy fishery management plan to include other coastal pelagic species will be reviewed. The Plan Development Team will continue to meet in the afternoon.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: May 21, 1991.

David S. Crestin,

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

[FR Doc. 91-12461 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's (Council) Groundfish Management Team (GMT) and Scientific and Statistical Committee (SSC) Groundfish Subcommittee will hold public meetings on May 29-31, 1991, at the Northwest and Alaska Fishery Center, National Marine Fisheries Service, 7600 Sand Point Way NE., Building 4, room 2143, Seattle, WA. The meetings will begin on May 29 at 8 a.m., and adjourn on May 31 at 4:30 p.m.

The GMT and SSC subcommittee will review preliminary stock assessment reports for four groundfish species and prepare recommendations to the authors. The Council will receive a report on these assessments at its July meeting in Seattle, Washington, and the assessments may be used as the scientific basis for harvest levels set for the 1992 fishing year.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: May 21, 1991.

David S. Crestin,

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

[FR Doc. 91-12462 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council (Council) will hold public meetings required by the salmon fishery management plan on May 30, 1991, at the Olympia Center, 222 North Columbia, room 101, Olympia, Washington, and on June 3, 1991, at the Linn Benton Community College, in the Calapooia Room of the College Center Building, 6500 SW. Pacific Boulevard, Albany, Oregon. The Council is commencing a review of stocks which have not met their spawning escapement objectives for the past three years. The Council has appointed two work groups to direct the review. These groups will review the causes for the escapement failures and provide recommendations for their resolution to the Council prior to the 1992 ocean salmon season.

On May 30 the Puget Sound Salmon Stock Review Group will begin meeting at 10 a.m. This meeting is expected to last most of the day. The group will examine the causes which have led to a failure in meeting spawning escapement objectives for naturally produced Skagit and Hood Canal coho, and Skagit spring, Stillaguamish summer/fall and Snohomish summer/fall chinook stocks.

On June 3 the Oregon Coastal Natural Coho Review Group will begin meeting at 10 a.m. This meeting is also expected to last most of the day. This group will examine the causes which have led to a failure in meeting the spawning escapement objective for the Oregon coastal natural coho stock.

For more information contact John Coon, Staff Officer (Salmon), Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: May 21, 1991.

David S. Crestin,

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

[FR Doc. 91-12463 Filed 5-24-91; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 27, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT:

Mary P. Liggett (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: May 21, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: Extension.

Title: Application for grants under the Jacob K. Javits Fellows Program.

Frequency: Annually.

Affected Public: Individuals or households.

Reporting Burden:

Responses: 2,500.

Burden Hours: 12,500.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form will be used by graduate students to apply for funding under the Jacob K. Javits Fellows Program. The Department will use the information to make grant awards.

Office of Postsecondary Education

Type of Review: Extension.

Title: Application for continuation of the Title III, Strengthening Historically Black Colleges and Universities Program (HBCU).

Frequency: Annually.

Affected Public: Non-profit institutions.

Reporting Burden:

Responses: 98.

Burden Hours: 1,470.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form will be used by State educational agencies to apply for funding under Title III, Strengthening Historically Black Colleges and Universities Program. The Department will use the information to make grant awards.

[FR Doc. 91-12446 Filed 5-24-91; 8:45 am]

BILLING CODE 4000-1-M

DEPARTMENT OF ENERGY**Elementary Teacher Research Internship Program**

AGENCY: U.S. Department of Energy.

ACTION: Notice on non-competitive financial assistance (grant) award with the Community College of Allegheny County (CCAC).

SUMMARY: The Department of Energy—Pittsburgh Energy Technology Center (DOE-PETC) announces that pursuant to 10 CFR 600.7(b)(2)(i) criterion (D) it intends to make a non-competitive financial assistance award (grant) to CCAC for support to facilitate the implementation of DOE's Elementary Teacher Research Internship program (ETRI) at PETC.

SCOPE: The objectives of this grant are: (1) To provide management, recruiting, and training of elementary school teachers and (2) to facilitate the DOE/PETC's education outreach program with the school districts in Southwestern Pennsylvania. The goal of DOE-PETC's new education outreach program is to strengthen the elementary school math/science curriculum through teacher retraining and enrichment at the DOE-PETC's R&D laboratories. This effort is in response to the DOE's new National Energy Strategy that calls for fortifying the nation's foundation by investing in human resources to assure competency and creativity in managing technology.

In accordance with 10 CFR 600.7(b)(2)(i) criterion (D) the Community College of Allegheny County has been selected as the grant recipient.

DOE support of the activity would enhance the public benefits to be derived by enhancing the quality of elementary school teachers. This activity represents a unique idea and a method which would not be eligible for financial assistance under a recent, current or planned solicitation.

Furthermore, DOE has determined that a

competitive solicitation would be inappropriate.

The term of the grant is for a twelve (12) month period at an estimated value of \$70,000 that will entirely be funded by the DOE.

FOR FURTHER INFORMATION CONTACT:

U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236, Attn: Norey B. Laug, Telephone: AC (412) 892-4827.

Dated: May 16, 1991.

Carroll A. Lambton,

Acting Director, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 91-12517 Filed 5-24-91; 8:45 am]

BILLING CODE 6450-01-M

Methodology for the Evaluation of Technology Transfer Efforts

AGENCY: U.S. Department of Energy, Bartlesville Project Office.

ACTION: Notice of non-competitive financial assistance (grant) award with the Interstate Oil Compact Commission (IOCC).

SUMMARY: The Department of Energy (DOE), Bartlesville Project Office (BPO) announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (A) and (D), it intends to make a non-competitive Financial Assistance (Grant) award through the Pittsburgh Energy Technology Center to the Interstate Oil Compact Commission (IOCC) for the continuation of their effort entitled "Methodology for the Evaluation of Technology Transfer Efforts."

SCOPE: Based upon the authority of 10 CFR 600.7(b)(2)(i) criteria (A) and (D), the objective of this Grant is for the Interstate Oil Compact Commission to continue conducting basic research on an effective evaluation methodology for technology transfer efforts. IOCC will assess the effectiveness of the DOE technology transfer program while working closely with federal program managers, appropriate state agencies and regional oil and gas associations. The intended research will be carried out in two phases: (1) An initial assessment of existing methodologies and infrastructure used by state oil and gas technology transfer programs, as well as those of the oil and gas associations in several states; (2) a subsequent design and development of evaluation methodology to assess the effectiveness of the DOE Technology Transfer Program. The terms of the grant is

twelve (12) months at an estimated value of \$247,000.00.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236, Attn: Martin J. Byrnes, Telephone: AC 412/892-4486.

Dated: May 17, 1991.

Carroll A. Lambton,
Acting Director, Acquisition and Assistance Division.

[FR Doc. 91-12518 Filed 5-24-91; 8:45 am]

BILLING CODE 6540-01-M

Superclean Coal-Water Slurry Combustion (SCCWS) Testing in an Oil-Fired Industrial Boiler; Non-Competitive Financial Assistance (Revision) Award

AGENCY: U.S. Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Notice of Non-Competitive Financial Assistance (Revision) Award with The Pennsylvania State University.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center (PETC) announces that pursuant to 10 CFR 600.7(b)(2)(i) Criteria (A), it intends to make a non-competitive Financial Assistance (Revision) award to The Pennsylvania State University to expand the scope of work for the existing SCCWS demonstration project.

SCOPE: The proposed activity with PSU would implement an expanded scope of work for a SCCWS demonstration that arose in 1989 from a formal agreement between the U.S. and Italy. Development of SCCWS's for displacement of oil as a boiler fuel has strategic value in reducing both countries' dependence on imported oil. In the U.S., availability of a SCCWS technology base capable of rapid implementation can provide the Federal Government with technical, economic, and military options that otherwise would not be available. Specifically, the additional tests will provide valuable information for the designs of boiler retrofits and also, new systems specifically configured to fire these clean coal-based fuels that will be prepared from U.S. coals.

With additional DOE funds, and matching Pennsylvania contribution, the scope of the demonstration will be expanded to include the following major tasks and their objectives:

(1) *Test other U.S. coal(s), preferably from the midwest or west.* This task would broaden the potential market for the boiler system.

(2) *Install and test an advanced, high efficiency burner.* A recent U.S. DOE contract developed a coal-water fuel burner specifically for retrofit to oil/gas-designed boilers. Other advanced burners may also be available. The SCCWS project presents a unique opportunity to demonstrate the effectiveness of an advanced burner on a commercial boiler for several hundred hours of testing.

(3) *Install and test a superheater.* The superheater will enable the industrial-scale boiler to more closely approximate a utility boiler in terms of configuration and operation. Results could then be extrapolated to a much broader range of commercial boilers.

(4) *Install and test an advanced flue gas treatment system.* U.S. DOE/PETC's Environmental Control Division is developing SO_x, NO_x and particulate control systems for coal-fired units that include the type of industrial-scale boiler at PSU. The expanded SCCWS project will provide an excellent, cost-effective approach to examine a selected component's emission control capabilities during operation on a commercially available boiler.

This grant to The Pennsylvania State University for continuation of an existing project is considered suitable for non-competitive financial assistance based on 10 CFR 600.7(b)(2)(i) Criteria A.

Because of the current price of imported oil, the necessary economic incentives do not exist to develop the SCCWS technology necessary to displace oil as the fuel of choice. When the economic justifications are realized, this transaction, in conjunction with the base project, should help the private sector participate in the development of a SCCWS infrastructure that will be needed to commercialize the technology.

The terms of the continuation of the existing Cooperative Agreement are for twenty-four (24) months at an estimated value of \$2,978,000.00, with each of the Participants (DOE and PSU) sharing 50% of the project costs.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236, Attn: Keith R. Miles, Telephone: (412) 892-5984

Dated: May 17, 1991.

Carroll A. Lambton,
Acting Director, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 91-12518 Filed 5-24-91; 8:45 am]

BILLING CODE 6450-01-M

DOE Acceptance for Documenting the Resolution of Issues Contained in the Westinghouse Savannah River Company Reactor Operations Management Plan (ROMP) for Restart of the K-Reactor; Response to Recommendation 91-2 of the Defense Nuclear Facilities Safety Board

AGENCY: Department of Energy.

ACTION: Notice and request for public comment.

SUMMARY: Pursuant to section 315(b) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(b) the Department of Energy (DOE) hereby publishes notice of a response of the Secretary of Energy (Secretary) to Recommendation 91-2 of the Defense Nuclear Facilities Safety Board, concerning documenting the resolution of issues contained in the Westinghouse Savannah River Company Reactor Operations Management Plan (ROMP) for restart of the K-Reactor. DOE hereby requests public comment on the response of the Secretary to Recommendation 91-2.

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before June 27, 1991.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Donald F. Knuth, Deputy Assistant Secretary for Operations, Defense Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: May 18, 1991.

Donald F. Knuth,
Deputy Assistant Secretary for Operations, Defense Programs.
May 14, 1991.

The Honorable John T. Conway, Chairman
Defense Nuclear Facilities Safety Board, 625
Indiana Avenue, NW., Suite 700,
Washington, DC 20004.

Dear Mr. Conway: Under section 315 of Public Law 100-456, I am providing the Department of Energy (DOE) response to the Defense Nuclear Facilities Safety Board Recommendation 91-2, dated March 27, 1991, for documenting the resolution of issues contained in the Westinghouse Savannah River Company Reactor Operations Management Plan (ROMP) for restart of the K-Reactor.

Board Recommendation 91-2 contained the following two recommendations:

1. That each closure package of an issue in the ROMP be provided with a brief narrative discussion that clarifies the meaning of the

issue, describes the steps that were taken to resolve it, states the reason for concluding that closure has been achieved, and shows how the referenced documents support the claim of closure; and

2. That the DOE revert to its earlier plan to fully review and concur with the determinations of each issue closure.

I accept the Board's Recommendation 91-2. The actions required to adopt the recommendations already have been initiated in response to a discussion held with the Board on March 18, 1991.

Under section 318(d) of the Atomic Energy Act of 1954 (42 U.S.C. 2286d(d)) this response will be published in the *Federal Register*.

If you have any questions, please contact Steven D. Richardson (202/586-2185) of my staff.

Sincerely,

James D. Watkins,

Admiral, U.S. Navy (Retired).

[FR Doc. 91-12524 Filed 5-24-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP91-2066-000, et al.]

Natural Gas Pipeline Company of America, et al.; Natural Gas Certificate Filings

May 20, 1991.

Take notice that the following filings have been made with the Commission.

1. Natural Gas Pipeline Company

[Docket No. CP91-2066-000]

Take notice that on May 16, 1991, Natural Gas Pipeline Company of

America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP91-2066-000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon effective May 27, 1991, the firm and interruptible transportation services performed by Natural for Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Natural states that it provides a firm transportation service of up to 27,000 Mcf of natural gas per day plus the interruptible transportation of excess quantities of up to 18,000 Mcf of natural gas per day for Columbia Gas pursuant to a gas transportation agreement between Natural and Columbia Gas dated January 23, 1976, which is on file with the Commission as Natural's Rate Schedule X-62.

Natural states that pursuant to Rate Schedule X-62 it transports natural gas for Columbia Gas from West Cameron Block 543 to a point of interconnection with Stingray Pipeline Company located in West Cameron Block 565, offshore Louisiana.

Natural further states that pursuant to letters dated October 8, 1990 and March 28, 1991, Columbia Gas has given Natural written notice of Columbia Gas' election to terminate the transportation agreement effective May 27, 1991.

Comment date: June 10, 1991, in accordance with Standard Paragraph F at the end of this notice.

Texas Gas Transmission Corporation; Tennessee Gas Pipeline Co.

[Docket Nos. CP91-2064-000, CP91-2065-000, CP91-2068-000]

Take notice that Applicant filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.¹

Information applicable to each transaction, including the identify of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: July 5, 1991, in accordance with Standard Paragraph G at the end of this notice.

¹ These prior notice requests are not consolidated.

Applicant: Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, KY 42301.
Blanket Certificate Issued in Docket No.: CP88-868-000.

Docket No. (date filed)	Shipper name (type shipper)	Peak day ¹ avg. annual	Points of		Start up date rate schedule	Related ² dockets
			Receipt	Delivery		
CP91-2064-000 (05-16-91)	Coast Energy Group	200,000 30,000 10,950,000	LA, TX, TN, Offshore LA, Offshore TX, KY IL.	LA, TX	04-10-91, IT	ST91-8359-000
CP91-2065-000 (05-16-91)	NGC Transportation, Inc.	3,000 3,000 1,095,000	Offshore TX	Offshore TX	04-03-91, IT	ST91-8356-000.

¹ Quantities are shown in MMBtu unless otherwise indicated.

² If an ST docket is shown, 120-day transportation service was reported in it.

Applicant: Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, TX 77252.
Blanket Certificate Issued in Docket No.: CP87-115-000.

Docket No. (date filed)	Shipper name (type shipper)	Peak day ¹ avg. annual	Points of		Start up date rate schedule	Related ² dockets
			Receipt	Delivery		
CP91-2068-000 (05-16-91)	Direct Gas Supply Corporation.	51,150 51,150 18,669,750	Offshore TX, Offshore LA, LA, TX, MS.	LA, TX, MS, AL, NJ, CT, NY, WV, OH, PA, KY, MA.	04-02-91, IT	ST91-8563-000.

¹ Quantities are shown in Dekatherms unless otherwise indicated.

² If an ST docket is shown, 120-day transportation service was reported in it.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,
Secretary.

[FR Doc. 91-12455 Filed 5-24-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER90-527-004]

Northern States Power Co.; Filing

May 20, 1991.

Take notice that on April 25, 1991, Northern States Power Company tendered for filing its compliance refund report in the above referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 31, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 91-12458 Filed 5-24-91; 8:45 am]

BILLING CODE 6717-01-M

Trunkline Gas Co.; Application

May 20, 1991.

Take notice that on May 10, 1991, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP91-2013-000 an application, as supplemented on May 17, 1991, pursuant to section 7(b) of the Natural Gas Act for permission and approval for the abandonment of transportation of natural gas for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

Trunkline requests permission and approval to abandon firm transportation of up to 25,000 Mcf per day (Mcf/d) of natural gas and interruptible transportation of up to 6,000 Mcf/d of natural gas for Natural under authority

granted in Docket No. CP85-345-000. Trunkline states that it will continue the transportation service for Natural pursuant to Trunkline's blanket authorization and subpart G of part 284 of the Commission's Regulations.

Trunkline states that under the current arrangement, gas is received by Tarpon Transmission Company (Tarpon) for the account of Natural in Eugene Island Area Block 361, offshore Louisiana, and that Trunkline has used its capacity in the Tarpon system to transport Natural's gas to Trunkline's system in Ship Shoal Area Block 274. Trunkline then transports and redelivers the gas to Natural at a point of interconnection in Cameron Parish, Louisiana. Trunkline states that it has terminated its firm transportation agreement with Tarpon, under which Trunkline transported gas for the account of Natural, and can no longer transport Natural's gas on the Tarpon system.

Trunkline states that it will continue to transport up to 18,000 Mcf/d on a firm basis and up to 10,000 Mcf/d of natural gas on an interruptible basis on behalf of Natural under subpart G of part 284 of the Regulations pursuant to transportation agreements dated June 29, 1991, between Trunkline and Natural. Trunkline states that Natural is arranging transportation agreements with Tarpon. Trunkline states that under the June 29, 1991, agreements, it would receive gas for the account of Natural from the Tarpon terminus at Ship Shoal Area Block 274 and from various existing points of receipt in the states of Illinois, Louisiana, Tennessee and Texas and from the Panhandle Eastern Pipe Line Company receipt point at Douglas County, Illinois, and from the areas of offshore Louisiana and offshore Texas. Trunkline states that it would transport and redeliver Natural's gas, less fuel and unaccounted-for line loss, to Natural in Cameron Parish, Louisiana.

Trunkline states that to the extent a waiver of its transportation tariff may be deemed necessary by the Commission to permit Trunkline to provide the transportation service under § 284.222 of the Commission's Regulations (18 CFR 284.222) as replacement authorization without any change in the priority or character of service to Natural, Trunkline requests such a waiver. Trunkline states that exhibit A attached to the replacement contract in the subject docket identifies all points of receipt applicable to open access type transportation

arrangements; however, the existing transportation arrangement to which the replacement contract applies involves only the intended point of receipt at the interconnection between the facilities of Trunkline and Tarpon in Ship Shoal Area Block 274, offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trunkline to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-12456 Filed 5-24-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP91-2014-000]

Trunkline Gas Co.; Application

May 20, 1991.

Take notice that on May 10, 1991, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP91-2014-000 an application as supplemented on May 17, 1991, pursuant to section 7(b) of the Natural Gas Act for permission and approval for the abandonment of

transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

Trunkline requests permission and approval to abandon interruptible transportation of up to 7,000 Mcf per day (Mcf/d) of natural gas for Transco under authority granted in Docket No. CP86-410-000. Trunkline states that it will continue the transportation service for Transco pursuant to Trunkline's blanket authorization and subpart G of part 284 of the Commission's Regulations.

Trunkline states that under the current arrangement, Trunkline transports Transco's gas from the production platform to the Eugene Island Area Block 361 interconnection with Tarpon transmission Company (Tarpon). Trunkline states that it has utilized its own capacity in the Tarpon system to transport Transco's gas to Trunkline's system in Ship Shoal Area block 274, offshore Louisiana. Trunkline states that it then transports and redelivers the subject gas to Transco at an interconnection near Ragley in Beauregard Parish, Louisiana. Trunkline states that it has terminated its firm transportation agreement with Tarpon, under which Trunkline transported gas for the account of Transco, and as such can no longer transport Transco's gas on the Tarpon system.

Trunkline states that it will continue to transport up to 7,000 Mcf/d of natural gas on an interruptible basis on behalf of Transco under subpart G of part 284 of the Regulations pursuant to a transportation agreement dated July 1, 1991, between Trunkline and Transco. Trunkline states that Transco has amended an existing interruptible transportation agreement it has with Tarpon to include these receipt and delivery points to facilitate the continuance of service. Trunkline states that under the July 1, 1991, agreement, it would receive gas for the account of Transco from the Tarpon terminus at Ship Shoal Area Block 274 and from various existing points of receipt in the states of Illinois, Louisiana, Tennessee and Texas and from the Panhandle Eastern Pipe Line Company receipt point at Douglas County, Illinois, and from the areas of offshore Louisiana and offshore Texas. Trunkline states that it would transport and redeliver Transco's gas, less fuel and unaccounted for line loss, to Transco in Beauregard Parish, Louisiana.

Trunkline states that to the extent a waiver of its transportation tariff may be deemed necessary by the commission to permit Trunkline to provide the

transportation service under § 284.222 of the Commission's Regulations (18 CFR 284.222) as replacement authorization without any change in the priority or character of service to Transco, Trunkline requests such a waiver.

Trunkline states that exhibit A attached to the replacement contract in the subject docket identifies all points of receipt applicable to open access type transportation arrangements; however, the existing transportation arrangement to which the replacement contract applies involves only the intended point of receipt at the interconnection between the facilities of Trunkline and Tarpon in Ship Shoal Area Block 274, offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trunkline to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-12457 Filed 5-24-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals**Cases Filed During the Week of March 29 Through April 5, 1991**

During the week of March 29 through April 5, 1991, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings

and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of

publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: May 17, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Mar. 29 through Apr. 5, 1991]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 29, 1991	Texaco/Lizzi Bros. Texaco, Sandusky, OH	RR321-57	Request for modification/rescission in the Texaco refund proceeding. <i>If granted:</i> The May 9, 1990 Decision and Order (Case Nos. FR321-623 & FR321-3614) issued to Lizzi Bros. Texaco would be modified regarding the firm's Application for Refund submitted in the Texaco Inc. special refund proceeding.
Apr. 5, 1991	Barton J. Bernstein, Stanford, CA	LFA-0 08	Appeal of an information request denial. <i>If granted:</i> The January 30, 1991 Freedom of Information Request Denial issued by Albuquerque Operations Office would be rescinded, and Barton J. Bernstein would receive access to DOE information.

REFUND APPLICATIONS RECEIVED

[Week of Mar. 29 through Apr. 5, 1991]

Received	Name of firm	Case No.
03/29/91 thru 04/ 05/91.	Crude Oil Refund Applications Received.	RF272-88674 thru RF272-89227.
03/29/91 thru 04/ 05/91.	Gulf Oil Refund Applications Received.	RF300-16197 thru RF300-16328.
03/29/91 thru 04/ 05/91.	Texaco Refund Applications Received.	RF321-14699 thru RF321-14732.
04/01/91	Gold Bond Bldg. Products.	RF326-00248.
04/01/91	Mitchell Energy & Development.	RF326-00249.
04/01/91	Transportation Supplies.	RF304-12200.
04/02/91	Neal, Inc.	RF326-00251.
04/03/91	J.C. Penney Co., Inc.	RF334-00005.
04/03/91	Fred Meyers, Inc.	RF334-00006.
04/03/91	Union Texas Petroleum.	RF326-00250.
04/04/91	W.J. Runyon and Son, Inc.	RA272-00036.
04/05/91	Clarence J. Rulon.	RF307-10181.
04/05/91	Dom's Arco	RF304-12201.
04/05/91	Jim Rapano's	RF304-12203.
04/05/91	G.R.B., Inc.	RF304-12202.

[FR Doc. 91-12519 Filed 5-24-91; 8:45 am]

BILLING CODE 6450-0 -M

Issuance of Decisions and Orders Issued the Week of March 18 Through March 22, 1991

During the week of March 18 through March 22, 1991, the decisions and orders summarized below were issued with respect to applications for relief filed

with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Order

Richome Oil ad Gas Co., (a.k.a. Herrmann Energy), Jerome B., Herrmann, Richard P. Herrmann, Economic Regulatory Administration, 3/18/91, KRO-0710, LRD-0004

Richard P. Herrmann, on behalf of himself, Richome Oil and Gas Company (a.k.a. Herrmann Energy), and Jerome B. Herrmann (collectively, the respondents) objected to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the respondents on September 21, 1988. In the PRO, the ERA alleged that during the period from November 27, 1973 through December 31, 1974, the respondents violated the price regulations applicable to first sales of crude oil set forth in 10 CFR part 212, subpart D and the predecessor regulations and, as a consequence, overcharged Permian Oil Corporation in the amount of \$137,030.20. After considering the respondents' Statements of Objections, the DOE concluded that the PRO should be issued as a final Remedial Order. In reaching its conclusion, the DOE rejected the respondents' contentions that: (a) The ERA failed to establish a *prima facie* case against Richome for violations of the producer price regulations; (b) the PRO impermissibly sought restitution

from Richome for alleged overcharges it never received or was foreclosed from recovering; (c) the doctrine of laches prevented the ERA from proceeding with this action; (d) the reactivation of this enforcement action constituted inordinate delay and was a violation of Richome's due process rights; (e) Herrmann Energy was not a proper party and should not be held liable; and (f) the interest rates used by the ERA were never properly adopted by the DOE and imposing them constituted an abuse of discretion. Finally, since the DOE established that sufficient evidence existed in the record to make determinations on all of the issues in the proceeding, the DOE found that the ERA's Motion for Discovery was moot.

Refund Applications

A & B Transportation, 3/22/91 RF272-70289, RD272-70289

The Department of Energy (DOE) issued a Decision and Order denying an Application for Refund filed by A & B Transportation (A&B) in the subpart V crude oil refund proceeding. A & B applied for a refund based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981 (the crude oil price control period). The DOE found that the estimation technique A & B used to calculate its total gallonage claim is easily duplicated, and therefore required the firm to document its purchases. However, the applicant was unable to do so. Accordingly, the DOE denied A & B's Application because it lacks the necessary information to substantiate

the gallonage claim. The DOE also dismissed a Motion for Discovery which was filed by a group of state governments and two territories of the United States.

Agway, Inc./Wooten Oil Co., 3/20/91, RF324-0003

The DOE issued the first Decision and Order in the Agway, Inc. (Agway) special refund proceeding on March 20, 1991, to Wooten Oil Co. (Wooten). The DOE approved the Application for Refund filed by Wooten on the basis of purchases of 43,586,994 gallons of Agway products. The firm elected the 40 percent mid-level reseller presumption. The amount of the refund granted was \$8,970.

Brannan Sand and Gravel Co., 3/21/91, RF272-44961, RD272-44961

Brannan Sand and Gravel Co. (Brannan) is involved in the road construction industry. It filed an Application for Refund as an end user of refined petroleum products in the subpart V crude oil refund proceeding. A group of state governments and two territories of the United States (the States) objected to the application, provided evidence concerning the construction industry as a whole and filed a Motion for Discovery. The DOE determined that the States had failed to produce any convincing evidence to show that Brannan had been able to pass on the crude oil overcharges to its customers, and found that the States' evidence failed to properly address the individual situation of the applicant. As in previous decisions, the DOE rejected the States' contention that industry-wide data constituted sufficient evidence to rebut the presumption that end-users such as Brannan were injured by crude oil overcharges. The DOE granted Brannan a refund of \$43,598 based on its approved purchases of petroleum products. The DOE accordingly denied the Motion for Discovery by the States.

City of Virginia Beach, 3/22/91, RR272-67

The DOE issued a Decision and Order concerning a Motion for Reconsideration that the City of Virginia Beach (Virginia Beach) filed in the subpart V crude oil special refund proceeding being conducted by the DOE under 10 CFR part 205. The DOE determined that the Motion contained no new factual or legal evidence to warrant granting the Virginia Beach Motion. Accordingly, the Motion for Reconsideration was denied.

Gulf Oil Corporation/Don's Gulf, et al., 3/20/91, RF300-11204, et al.

In the Gulf Oil Corporation special refund proceeding the Department of Energy granted a total refund amount of \$20,339 to seven resellers and retailers. Some of the applicants in this decision filed their claims through Federal Refunds, Inc. (FRI). The refund checks of applicants represented by FRI were sent directly to the applicants. See *Gulf Oil Corp./LeBlanc's Gulf Service*, 18 DOE ¶85,876 (1989).

J.M. Huber Corporation, 3/20/91, RF272-42024, RD272-42024

J.M. Huber Corporation produces printing ink. Huber filed an Application for Refund as an end-user of refined petroleum products in the subpart V crude oil refund proceeding. A group of state governments and two territories of the United States (the States) objected to the application, and provided evidence concerning the printing ink industry as a whole. The States also inferred that Huber had not absorbed the alleged overcharges from information which Huber submitted with its application. The DOE determined that the States had failed to produce any convincing evidence to show that Huber had been able to pass on the crude oil overcharges to its customers, and found that most of the States' evidence failed to properly address the individual situation of the applicant. The DOE granted Huber a refund of \$43,971, based on its approved purchases of 54,963,295 gallons of petroleum products. The DOE also denied a Motion for Discovery which was filed by the States.

J. R. Simplot Co., 3/20/91, RF272-06114, RD272-06114, RF272-15267, RD272-15267, RD272-21967

The DOE issued a Decision and Order concerning three Applications for Refund filed by divisions of J. R. Simplot Company (Simplot) in the subpart V crude special refund proceeding. The DOE determined that the refund claims were meritorious and granted refunds totalling \$49,720. The DOE also denied Objections filed, in two of the three cases, by a consortium of states and two U.S. territories (the States), finding that the industry-wide econometric data submitted by the States did not rebut the presumption that Simplot was injured by the crude oil overcharges. The DOE also found that an allegation of price fixing published in the Wall Street Journal was insufficient to rebut the end-user presumption. The Motions for Discovery filed by the States were also denied.

National Mines Corporation, 3/22/91, RF272-77439

The Department of Energy issued a Decision and Order denying a refund

from the crude oil overcharge funds to National Mines Corporation (Mines), because an affiliate of Mines filed in the Stripper Well proceeding and received a refund from the Surface Transporters Escrow Account. Previously, in *National Steel Corporation/Granite City*, 21 DOE ¶85,134 (1991) the DOE determined that the Permian Corporation (Permian) was an affiliate of National Steel Corporation (NSC) on the Surface Transporters Escrow Account Payment Date (August 7, 1986) and that Permian had waived NSC's right to a crude oil refund. In this Decision, the DOE determined that Mines was also an affiliate of NSC on the Surface Transporters Payment Date and that Permian's waiver also waived Mines' right to receive a refund. Accordingly, National Mines Corporation's Application for Refund was denied.

Placid Oil Co. Highway Oil, Inc., 3/18/91, RF314-6

In the Placid Oil Company special refund proceeding the Department of Energy granted a refund of \$3,175 to Highway Oil Inc. (Highway) based on its approved purchases of 5,570,913 gallons of Placid refined petroleum products. Highway is subject to a Proposed Remedial Order (PRO) (Case No. HRO-0123) issued by the Economic Regulatory Administration (ERA) on October 29, 1982. Therefore, the DOE directed that the refund be held in an interest-bearing escrow account until the ERA enforcement action against Highway is resolved. This money may only be distributed upon further order of the Director of the Office of Hearings and Appeals or his designee.

Shell Oil Co. C & L Super Shell, 3/20/91, RF315-2

The DOE issued a Decision and Order concerning a Motion for Reconsideration filed by Carmine A. Langone, former partner in C & L Super Shell. Mr. Langone's Motion requested the reversal of a November 8, 1990 Decision which ordered Mr. Langone to remit \$732 to the DOE. Mr. Langone, although having sold his interest in C & L in 1977, contended that he still deserved the refund based on purchases made through May 1979 because until that time, his name remained on the station's lease with Shell. The DOE found that the name on the lease did not override the Purchase and Sale Agreement that Mr. Langone signed in 1977. His Motion was therefore denied.

Shell Oil Co./Ozark Airlines, Trans World Airlines, 3/20/91, RF315-6271, RF315-6272, RF315-6273

The DOE issued a Decision and Order granting three Applications for Refund filed in the Shell Oil Company special refund proceeding. The applicants, Trans World Airlines and its subsidiary, Ozark Airlines, purchased directly from Shell and were end-users of Shell products. Accordingly, the applicants were granted refunds equal to their full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The sum of the refunds granted in the Decision is \$386,960 (\$237,084 principal plus \$99,876 interest).

Shell Oil Co./S & W Oil Co., W & W Co.,
3/18/91, RF315-1539, RF315-10124,
RF315-1540

The DOE issued a Decision and Order concerning the refund applications filed in the Shell Oil Company special refund proceeding by Frank Waggener, Jr. and Elaine Safley, widow of Charles Safley. Mr. Waggener and Mr. Safley were partners in S & W Oil Company until November 1976, when Mr. Waggener bought out Mr. Safley and formed a new company, W & W Company. Mr. Waggener was granted a \$3,185 refund (\$2,363 principal and \$822 interest) based on 50 percent of S & W's purchases during the period of partnership and on all of W & W's purchases. Mrs. Safley was granted a \$2,074 refund (\$1,539 principal and \$535 interest) based on 50 percent of S & W's purchases during the period of partnership. The total refund granted in this Decision is \$5,259.

Texaco Inc./P & R Distributing et al., 3/
20/91, RF321-410 et al.

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning five Applications for Refund filed by resellers of Texaco products. Each of these applicants had an allocable share greater than \$10,000. Four of the applicants stated that they accepted the medium-range presumption of injury, and accordingly they were not required to demonstrate injury. The fifth applicant, National Car Rental System,

stated that the medium-range presumption was not applicable to it because it was not a reseller. The DOE rejected this contention, finding that National, like most other car rental firms was a reseller under the DOE price regulations. Consequently, in order to receive a refund equal to its full allocable share, National, like any other reseller with an allocable share greater than \$10,000, would have to demonstrate injury. Under the mid-level presumption of injury, the five applicants were each granted a refund equal to the greater of \$10,000 or 50 percent of its allocable share.

Texaco Inc./Stuckey's Inc., Pet
Incorporated, 3/18/91, RF321-12552
et al.

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning three Applications for Refund filed by Pet Incorporated and four Applications filed by Pet's affiliate, Stuckey's Inc. The applications indicated that, during the refund period, Stuckey's resold 186,943,899 gallons of Texaco products and Pet consumed 5,644,928 gallons of Texaco products in its food processing facilities. Stuckey's stated that it accepted the presumption of injury with respect to its reselling activities. Accordingly, it was not required to demonstrate injury. The DOE found that Stuckey's should be granted a refund under the medium-range presumption of injury of \$50,000 plus interest. The DOE also found that, since Pet's food processing activities were unrelated to Stuckey's reselling activities, Pet should be granted a separate refund equal to its full allocable share, plus interest.

Texaco Inc./Warfield Oil Co. et al. 3/
20/91, RF321-5450 et al.

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning seven Applications for Refund filed by consignees and resellers of Texaco products. The DOE noted that consignees are entitled to refunds on the same basis as resellers in order to

compensate for possible allocation violations during the refund period. In determining the appropriate volume upon which to calculate the refunds, the DOE (1) reduced volumes claimed by jobber applicants by volumes involved in "Delivery for Our Account" transactions since these volumes did not constitute purchases, and (2) excluded from consignee claims volumes that the applicant purchased through the consigneeship since those volumes were already included in the consignee volumes. The applicants stated that they accepted the applicable reseller presumption of injury. Accordingly, they were not required to demonstrate injury. The applicants who had allocable shares of less than \$10,000 were granted refunds equal to their full allocable share. Under the medium-range presumption of injury, the other applicants were granted a refund equal to the greater of \$10,000 or 50 percent of their allocable share.

Yenkin Majestic Paint Corp., 3/18/91,
RF272-62234

The Department of Energy (DOE) issued a Decision and Order granting refund monies from crude oil overcharge funds to Yenkin Majestic Paint Corp. (Yenkin) based upon its purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Using the definition of end-user set forth in City of Annapolis, 17 DOE 85,714 (1988), the DOE determined that Yenkin was eligible for a refund based upon its purchases of 10 of the 34 products claimed in its Application. The refund granted to Yenkin was \$8,142.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Ancona Brothers Co	RC272-107	03/22/91
Atlantic Richfield Co./Mapco, Inc.	RF304-12162	03/20/91
Atlantic Richfield Co./Mountain Valley Arco et al.	RF304-11150	03/21/91
Co-OP Gas & Supply Co., Inc. et al.	RF272-64008	03/21/91
Dubuque Packing Co.	RF272-70447	03/22/91
Gleason Co.	RF272-49633	03/21/91
Gulf Oil Corp./Winnie Air Service, Inc. et al.	RF300-11711	03/20/91
Hermendorf Fixture Mfg. Co. et al.	RF272-52503	03/20/91
Ka'u Agribusiness Co., Inc.	RF272-3503	03/21/91
Point Judith Fishermen's Cooperative Association, Inc.	RF272-374	03/19/91
Shell Oil Co./United Oil Corporation et al.	RF315-1295	03/20/91
Tesoro Petroleum Corporation/Matthews Oil Co., Inc. et al.	RF326-5	03/21/91
Texaco Inc./Barker Texaco Service	RF321-10499	03/22/91
Barker Texaco	RF321-13871	
Texaco Inc./Bazell Oil Co., Inc. et al.	RF321-1809	03/22/91
Texaco Inc./Bob & Tom's Texaco et al.	RF321-844	03/20/91

Texaco Inc./East Main Texaco Service Station.....	RF321-11583	03/21/91
East Main Texaco	RF321-13867	
Texaco Inc./Freeway Texaco Service <i>et al.</i>	RF321-4099	03/21/91
Texaco Inc./Gallaway Texaco Truck Stop.....	RF321-1555	03/19/91
Esequiel Garza Gallaway Texaco	RF321-13527	
Texaco Inc./Oliver Bros. Texaco	RF321-12536	03/22/91
Oliver Brothers Texaco.....	RF321-13874	
Texaco Inc./Rhodes, Inc.....	RF321-5478	03/18/91
Rhodes Texaco	RF321-12929	
Texaco Inc./Ridge Service Station.....	RF321-11270	03/18/91
Ridge Service Station, Inc.....	RF321-13462	
Texaco Inc./Robert P. Akers Fuel Oil <i>et al.</i>	RF321-1266	03/22/91
Texaco Inc./Sharp's Texaco <i>et al.</i>	RF321-487	03/21/91
Texaco Inc./Swinnea Texaco Service.....	RF321-14552	03/19/91

Dismissals

The following submissions were dismissed:

Name	Case No.
Acorn Building Components, Inc.....	RF272-86380
Alamo Gulf	RF300-12485
Berry's Texaco.....	RF321-8136
Billy Yarbrough Grocery.....	RF300-12405
Brown's Gulf.....	RF300-15025
Butler County Highway Dept.....	RF272-86220
Calhoun Gulf	RF300-14311
Canal Gulf	RF300-13395
Canatella's Gulf	RF300-13394
Carson's Texaco.....	RF321-2202
City Gulf	RF300-14217
City Service Station.....	RF300-12156
Cook's Gulf	RF300-14640
Corayer's Gulf	RF300-14993
Corey Oil Co.....	RF315-10041
Cousins Metal Industries, Inc.....	RF272-79543
Dallastown Service Center.....	RF300-14981
Day's Downtown Texaco.....	RF321-7482
Days Gulf Service.....	RF300-13415
Deaconess Medical Center.....	RF272-85767
Doug's Texaco.....	RF321-5051
Downing Oil Co.....	RF304-11667
East Bro. Gulf	RF300-15444
Edward's Gulf.....	RF300-14436
Ernie's Gulf Service.....	RF300-12859
Ernoco Shell.....	RF315-10128
Fall Hill Texaco.....	RF321-9381
Faulk County, SD.....	RF272-85921
Forty's Texaco.....	RF321-5661
Four Way Market.....	RF300-12150
Fowlkes Grocery.....	RF300-13935
Frank & Rick's, Inc.....	RF300-15494
Gaines Petroleum Co., Inc.....	RF315-10040
Gopher State Truck Stop.....	RF300-13612
Gordy's Gulf.....	RF300-15203
Greene St. Gulf.....	RF300-15247
Guilbeau's Service Station.....	RF300-13259
Harold Jones Gulf	RF300-11538
Hayes Gulf, Inc.....	RF300-13884
Henry County, Georgia.....	RF272-85812
Henry's Interstate.....	RF300-13112
High Ridge Gulf	RF300-14029
Hoeffner Service Station.....	RF300-13348
Homestead Gulf.....	RF300-15376
IA Construction Corp.....	RF272-86054
Interstate Shell.....	RF315-10044
Jimmy's SVC Station.....	RF300-13455
John W. Clark Oil Co., Inc.....	RF300-11537
Johnnie Collins Gulf #1.....	RF300-14992
Jones County, IA.....	RF272-85734
Joseph Matvya Gulf	RF300-15293
Just Us Gulf	RF321-11963
Kay's Gulf	RF300-14453
Kelly's Gulf	RF300-13898
Knight's Gulf.....	RF300-11608
Kowal's Gulf.....	RF300-15215
Lahey's Gulf.....	RF300-11506

Name	Case No.
Laurel Springs Gulf.....	RF300-14262
Lee Gulf Service Station.....	RF300-15069
Lester G. Juilfs.....	RF272-86443
Limehouse Gulf.....	RF300-14728
M. Coy Jackson.....	RF300-15125
Macaluso Oil Co., Inc.....	RF300-13031
Magic Valley Electric Coop., Inc.....	RF272-84085
Mahaska Oil Co.....	RF300-15051
Marion County, IA.....	RF272-85662
Marion's Gulf.....	RF300-14357
Mascoma Valley Reg. School District.....	RF272-79989
McMahon Oil Co.....	RF300-15156
McNeese Texaco.....	RF321-2690
Meadow Brook Service Station.....	RF300-12697
Mellon Bank.....	RF300-15447
Melrose Gulf & Grocery.....	RF300-12208
Midview Gulf Service.....	RF300-14643
Mike's Gulf Service.....	RF300-15049
Miller's Gulf Service.....	RF300-12517
Milton Duke.....	RF300-12345
Minford Local School District.....	RF272-79944
Mountain View School District.....	RF272-79824
Mr. Discount Drug.....	RF300-12166
Nazione Gulf.....	RF300-14982
Nelson A. Mills.....	RF300-14761
New Rock Garage.....	RF300-15271
North Green Unit School District.....	RF272-84100
Parishville-Hopkinton School District.....	RF272-81636
Parson's Gulf.....	RF300-12191
Pedro Z. Martinez.....	RF300-15484
Petterson's Grocery.....	RF300-15304
Pickens County, AL.....	RF272-85497
Piedmont Hills Texaco.....	RF321-4527
Powers Gulf.....	RF300-12234
Providence Road Shell.....	RF315-10129
Purchase Line School District.....	RF272-82413
Quik Thrift Food.....	RF300-13379
R.B. Little, Inc.....	RF300-14260
Ray's West Side Gulf.....	RF300-14396
Raymond Muzny Texaco.....	RF321-8851
Red's Texaco.....	RF321-1237
Redwood Falls Municipal Hospital.....	RF272-85569
Rhoman Trucking.....	RF272-84327
Ridgedale Gulf Service.....	RF300-14385
Roseboro Gulf.....	RF300-13915
Rosemont Gulf.....	RF300-15029
Roshong's Gulf.....	RF300-11623
Roy Davis Gulf Service.....	RF300-13553
Sadleville Gulf.....	RF300-13294
Sam's Auto Service.....	RF300-12263
Schauer Service Station.....	RF300-12736
Sevlian Texaco.....	RF321-6374
Sheckler's Texaco.....	RF321-5898
Southern Park Gulf.....	RF300-14341
St. Johns Public Schools.....	RF272-81872
T.C. Graham's Gulf.....	RF300-14625
Ted's Service Station.....	RF300-12247
Ted's Texaco.....	RF272-1331
Texaco Bulk Plant.....	RF321-8676
Thayer County, NE.....	RF272-85613
The Sharon Hospital.....	RF272-85601

Name	Case No.
Theo Dinkins Service Station.....	RF300-15405
Thomas County, KS.....	RF272-85867
Toms Sierra Co., Inc.....	RF300-15170
Tony's Gulf Service.....	RF300-13727
Triangle Exxon.....	RF307-1760
Tube Bends, Inc.....	RF321-6403
TWP of Bridgewater.....	RF300-15395
Union Parish Policy Jury.....	RF272-85302
Union School Corporation.....	RF272-80592
W.E. Jersey & Sons.....	RF300-13983
W.E. Jersey & Sons.....	RF300-13985
Walt's Texaco Service Station.....	RF321-1472
Walworth County, SD.....	RF272-86081
Wayne Lockard.....	RF300-13300
Wayne's Shell #1.....	RF315-10108
Wayne's Shell #2.....	RF315-10109
Wayne's Shell #3.....	RF315-10110
West Raleigh Gulf.....	RF300-14943
Western School District.....	RF272-79582
Wildwood Gulf Service.....	RF300-14141
Williams' Grocery.....	RF300-14040
Willie Quall's Gulf.....	RF300-14004
Wright's Gulf.....	RF300-12625
Yellow Cab Co.....	RF300-15178

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: May 17, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-12520 Filed 5-24-91; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Public Notice of Floodplain/Wetlands Involvement for the Fort Morgan Substation Rebuild Project; Morgan County, CO

AGENCY: Western Area Power Administration, DOE.

ACTION: Public notice of floodplain/wetlands involvement and opportunity to comment.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), is proposing to construct a new Fort Morgan North Substation Tap, and associated 115-kilovolt (kV) transmission lines near Fort Morgan, Colorado. Pursuant to DOE's "Compliance with Floodplain/Wetlands Environmental Review Requirements," 10 CFR part 1022, Western has determined that this proposed project would involve activities within a floodplain area. This notice is published to notify the public of the proposed action and to request comments on the potential actions to be taken in the floodplain of the South Platte River.

SUPPLEMENTAL INFORMATION: Executive Orders 11988 and 11990 direct Federal Agencies to consider the impacts of proposed projects on floodplains and wetlands, respectively. Pursuant to DOE's "Compliance with Floodplain/Wetlands Environmental Review Requirements," 10 CFR part 1022, Western has determined that this proposed project would involve activities within a floodplain area and Western will, therefore, prepare a floodplain/wetlands assessment.

The existing Fort Morgan Substation is located within the floodplain of the South Platte River. Western proposes to remove the existing Fort Morgan Substation from the floodplain. The substation will be replaced by two new substations that, according to Federal Emergency Management Agency floodplain maps, would not be located in a designated floodplain. The names of the new substations would be Fort Morgan North Substation and Fort Morgan West Substation.

The existing Fort Morgan Substation has provided power to the City of Fort Morgan and Morgan County Rural Electric Association (MCREA) since 1941. The existing substation has several problems relative to environmental and operational safety requirements. Inadequate drainage is a severe problem at the site. An irrigation canal is located to the south and immediately above the substation. The ground beneath the substation is saturated during wet periods. Existing drainage slopes north, approximately 1500 feet to the South Platte River, through the City's Riverside Park. The river's elevation is 3 feet lower than the substation grade. These conditions limit design options for proper drainage and oil spill containment at the existing site. The existing facilities at the substation are

inadequate to serve current reliability criteria and projected load requirements. The City prefers that the substation be relocated to the west of Fort Morgan and MCREA prefers that the substation be relocated east of the town in order to efficiently serve their present and future customer loads. Two new substations, in lieu of the one existing facility, would better serve the needs of both the City and MCREA. The two new substations will greatly enhance the system reliability, and eliminate present operational safety and environmental problems.

DATES: Comments or suggestions concerning the floodplain involvement of Western's proposed actions are invited. Any comments are due June 12, 1991.

FOR FURTHER INFORMATION CONTACT:

Comments or suggestions should be sent to: Mr. Stephen A. Fausett, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, (303) 490-7200.

For additional information on the proposed project contact: Rodney D. Jones, Environmental Specialist, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, (303) 490-7371.

Issued at Golden, Colorado, May 15, 1991.

William H. Clagett,
Administrator.

[FR Doc. 91-12525 Filed 5-24-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3959-2]

Pacific States Steel Site; Proposed Administrative Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), notice is hereby given of the proposed administrative cost recovery settlement entered into by EPA Region IX and the Special Master appointed by the United States District Court for the Northern District of California to oversee the assets of the Pacific States Steel Corporation (PSSC). The proposed settlement was entered into under the authority granted EPA in section 122(h)

of CERCLA, and provides that PSSC will reimburse EPA within three years for all costs incurred at, or in connection with, an emergency removal conducted at the PSSC site in Union City, California.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region IX, (RC-1), 75 Hawthorne St., San Francisco, CA 94105, Attention: Steve Armsey, Regional Hearing Clerk.

DATES: Comments must be submitted on or before June 27, 1991.

ADDRESSES: A copy of the proposed settlement may be obtained from Steven Armsey, U.S. EPA Region IX Hearing Clerk (RC-1), 75 Hawthorne St., San Francisco, CA 94105. Comments should reference the Pacific States Steel Site and EPA Docket No. IX-90-21.

FOR FURTHER INFORMATION CONTACT: Robert Ogilvie, Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105, Telephone: (415) 744-1332.

Dated: May 16, 1991.

Jeff Zelikson,

Director, Hazardous Waste Management Division.

[FR Doc. 91-12514 Filed 5-24-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 91-138]

Hearing Designation Order; Branstine Flying Service, Inc. et al.

AGENCY: Federal Communications Commission.

ACTION: Hearing designation order.

SUMMARY: Notice is given that the application for an aeronautical advisory station (unicom) at Liberal Municipal Airport in Liberal, Kansas, filed by Branstine Flying Service, Inc., and the application for a unicom at the same location, filed by Liberal Aircraft, Inc. have been determined to be mutually exclusive and are therefore designated for hearing in a consolidated proceeding to determine in light of the evidence presented, which application, if any, should be granted.

EFFECTIVE DATE: May 28, 1991.

ADDRESSES: Federal Communications Commission, 2025 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Susan Jones, Aviation & Marine Branch, Private Radio Branch (202) 632-7175.

Hearing Designation Order

In re applications of Branstine Flying Service, Inc. and application of Liberal Aircraft, Inc. for an Aeronautical Advisory Station at Liberal Municipal Airport in Liberal, Kansas; PR Docket No. 91-138, File No. 810116, File No. 810345.

Adopted: May 7, 1991; Released: May 20, 1991.

1. The applications of Branstine Flying Service, Inc. (Branstine) and Liberal Aircraft, Inc. (Liberal) propose to operate an aeronautical advisory station (unicom) at Liberal Municipal Airport in Liberal, Kansas. Unicom stations provide information concerning flying conditions, weather, availability of ground services, and other information to promote the safe and expeditious operation of aircraft. See § 87.213(b)(1) of the Commission's Rules, 47 CFR 87.213(b)(1).

2. Both applicants propose to provide service at Liberal Municipal Airport, where there is no control tower or FAA flight service station. Section 87.215(b) of the Commission's Rules, 47 CFR 87.215(b), authorizes the operation of only one unicom station at such airports. Pursuant to §§ 1.227(b)(4) and 1.973(a) of the Commission's Rules, 47 CFR 1.227(b)(4) and 1.973(a), these applications are mutually exclusive and therefore must be designated for comparative hearing.

3. Liberal operates a unicom station under special temporary authority, initially granted April 4, 1988, and subsequently renewed. Liberal allowed its unicom license to expire prior to April 1988. Branstine has alleged, by letter to the FCC's Field Operations

Bureau, Kansas City, Missouri office dated January 23, 1990, and by letter to the Private Radio Bureau dated October 20, 1990, that Liberal does not provide impartial unicom service in accordance with § 87.213(a) of the Commission's Rules, 47 CFR 87.213(a). In addition, Branstine has alleged by letter to the Private Radio Bureau dated December 18, 1990, that, since filing their 1988 application, Liberal Aircraft, Inc. has been sold to Aero Center. This sale would constitute a transfer of control without notifying the Commission, in violation § 1.65 of the Commission's Rules, 47 CFR 1.65.

4. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), and § 1.221(a) of the Commission's Rules, 47 CFR 1.221(a), the above captioned applications are designated for hearing in a consolidated proceeding to determine the following issues:

a. To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

- (1) Location of the fixed-based operation and proposed radio station in relation to the landing area and traffic patterns;
- (2) Hours of operation;
- (3) Personnel available to provide advisory service;
- (4) Experience of applicant and employees in aviation and aviation communications;
- (5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.213 of the Commission's Rules, 47 CFR 87.213;
- (6) Proposed radio system including control and dispatch points; and
- (7) The availability of the radio facilities to other fixed-base operators.

b. To determine whether Liberal Aircraft, Inc. transferred control to Aero Center without properly notifying the Commission pursuant to § 1.65 of the

Commission's Rules, 47 CFR 1.65, as alleged by Branstine.

c. To determine whether Liberal provides impartial information concerning available ground services while operating the unicom station, under Special Temporary Authority, in compliance with § 87.213(a) of the Commission's Rules, 47 CFR 87.213(a).

d. To determine, in light of the evidence presented, which application, if any, should be granted to best serve the public interest, convenience, and necessity.

5. It is further ordered, That the burden of proceeding with the introduction of evidence with respect to the issues listed in subsection (a) and (d) shall be governed by § 1.254 of the Commission's Rules, 47 CFR 1.254. With respect to subsections (b) and (c), the burden of proof shall be upon Branstine.

6. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants, Liberal and Branstine, must each file with the Commission, within 20 days of the mailing of this Hearing Designation Order, a written notice of appearance in triplicate, accompanied by a processing fee of \$6,760.00, stating their intentions to appear on the date fixed for the hearing and to present evidence on the issues specified in this order, in accordance with § 1.221(c), (f) and (g) of the Commission's Rules, 47 CFR 1.221(c), (f) and (g).

7. The time and place of the comparative hearing will be specified in a subsequent order.

Federal Communications Commission.

Robert H. McNamara,

Chief, Special Services Division.

[FR Doc. 91-12434 Filed 5-24-91; 8:45 am]

BILLING CODE 6712-01-M

Barbara Key Peel et al; New FM Station Applications

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM docket No.
A. Barbara Key Peel.....	Jupiter, FL.....	BPH-890906MI	91-85
B. Sage Broadcasting Corporation of Jupiter, Florida.....	.....do.....	BPH-890912MF
C. Sun Over Jupiter Broadcasting, Inc.....	.....do.....	BPH-890913MG
D. Jupiter Inlet Mariners Radio Service, Inc.....	.....do.....	BPH-890913MH
E. Triple J Properties, Inc.....	.....do.....	BPH-890913MI
F. Tyler Communications, Limited Partnership.....	.....do.....	BPH-890913MK
G. Diane M. Bosler.....	.....do.....	BPH-890913ML
H. (John E. Morris and Lawrence R. Baker d/b/a) Morbak Communications.....	.....do.....	BPH-890913MN
I. Rieke General Partnership.....	.....do.....	BPH-890914MB
J. Great Red Spot, Inc.....	.....do.....	BPH-890914MC
K. Stone Mountain Broadcasting Company.....	.....do.....	BPH-890914MD
L. Jupiter Radio, Inc.....	.....do.....	BPH-890914ME
M. Intermart Broadcasting of Palm Beach, Inc.....	.....do.....	BPH-890914MG
N. Owens Broadcasting, Ltd.....	.....do.....	BPH-890914MI
O. Southern Media, Inc.....	.....do.....	BPH-890914MJ
P. (Terry D. Moore d/b/a) Pelican Broadcasting.....	.....do.....	BPH-890914MK

Applicant	City/State	File No.	MM docket No.
Q. Mary R. Meadows	do	BPH-890914MN	
R. Nephelie Wing Domencich	do	BPH-890914MO	
S. Beatrice Snyder	do	BPH-890914MQ	
T. Afro-American Broadcasters Limited	do	BPH-890914MS	
U. Marilyn Birk	do	BPH-890914MV	
V. (James B. Orthwein and George Y. Wheeler, III d/b/a) PalMar Radio Partners	do	BPH-890914MW	
W. Aragon One, Inc.	do	BPH-890914MX	
X. Palm Beach Broadcasting, Inc.	do	BPH-890914MY	
Y. Lighthouse Broadcasting, Inc.	do	BPH-890914MZ	
Z. Mostella Broadcasting Corp., Inc.	do	BPH-890914NC	
AA. (Fred Adams and Margaret Ann Wells, et al. d/b/a) Jupiter Radio Partners	do	BPH-890914NI	
AB. Jupiter Broadcasting Limited Partnership	do	BPH-890914NK	
AC. Jupiter Communications Co.	do	BPH-890914NM	
AD. Jupiter Media Partners, Ltd.	do	BPH-890914NN	
AE. Jupiter FM Broadcasters Limited Partnership	do	BPH-890914NO	
AF. Gold Coast Communications, Inc.	do	BPH-890914NQ	
AG. Phyllis B. Giles	do	BPH-890914NS	
AH. KB Radio	do	BPH-890914NU	
AI. Manuel Palau	do	BPH-890914NX	
AJ. Laura Maria McComas De Los Reyes	do	BPH-890914NZ	
AK. Richard M. Carrus	do	BPH-890914OB	
AL. Jupiter Radio Broadcasting, Inc.	do	BPH-890914OE	
AM. Treasure Coast Media, Inc.	do	BPH-890914ML (DISMISSED HEREIN)	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant
1. (See Appendix)	F
2. (See Appendix)	F
3. Financial	F,X
4. (See Appendix)	F
5. Cross-Interest	Q
6. Air Hazard	K,M,O,T
7. Site Availability	F,I,U,V,AF,AI
8. Environmental	A,B,F,G,J,N,Q,R,S,U,V, W,X,AA,AB,AE,AF,AG, AH,AI,AK
9. Comparative	A-AL
10. Ultimate	A-AL

3. 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.

Appendix

1. To determine, with respect to F (Tyler), whether its principal Bruce Lyons (if he dismisses his application to serve Brandon, Vermont prior to resolution of Issue 3 in MM Docket 90-636) was an undisclosed party-in-interest in Maxine Snow's Lebanon, New Hampshire FM application (File No. BPH-880126NX).

2. To determine whether F (Tyler) violated § 1.65 of the Commission's Rules, and/or lacked candor, by failing to report the designation of character issues against other applicants in which one or more of its partners has or had an ownership interest and/or failing to report the dismissal of such applications (or termination of such ownership interest) with unresolved character issues pending.

4. To determine, from the relevant evidence adduced pursuant to Issues 1-3 above, whether F (Tyler) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 91-12435 Filed 5-24-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; U.S. Atlantic & Gulf, et al.

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, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. 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.: 202-011102-014.

Title: U.S. Atlantic & Gulf/Western Mediterranean Rate Agreement.

Parties: Compagnie Generale Maritime, Compania Trasatlantica Espanola, S.A., Evergreen Marine Corporation (Taiwan) Ltd., Italia di Navigazione, S.p.A., Lykes Lines, Nedlloyd Lines, P & O Containers Limited, Sea-Land Service, Inc., Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would alter the geographic scope of the Atlantic and Gulf sections of the Agreement to include Florida ports from Jacksonville to, but not including, Key West as part of the Atlantic section of the Agreement. Key West and Gulf Coast Florida ports would remain part of the Agreement's Gulf section.

Agreement No.: 217-011332.

Title: WALLNYK Joint Service—Wallenius Lines Space Charter and Cooperative Working Agreement.

Parties: WALLNYK Joint Service, Wallenius Lines AB.

Synopsis: The proposed Agreement would permit the parties to charter space on each other's vessels and to discuss and agree upon the capacity of the vessels utilized, their scheduling and their ports of loading and discharge in

the trade from United States Atlantic and Gulf ports and Puerto Rico to ports in the United Kingdom, Eire, Continental Europe (including North Sea and Scandinavian ports), and islands of the Atlantic.

Agreement No.: 207-011333.

Title: WALLNYK Eastbound Atlantic Joint Service Agreement.

Parties: Wallenius Lines AB, Nippon Yusen Kaisha.

Synopsis: The proposed Agreement would permit the parties to form a joint service utilizing roll-on/roll-off vessels in the trade from United States Atlantic and Gulf Coast ports and Puerto Rico to ports in the United Kingdom, Eire, continental Europe (including North Sea and Scandinavian ports), and islands of the Atlantic.

Dated: May 21, 1991.

By order of the Federal Maritime Commission.

Joseph C. Polking,
Secretary.

[FR Doc. 91-12441 Filed 5-24-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

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

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

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

Unless otherwise noted, comments regarding each of these applications must be received not later than June 17, 1991.

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

1. *First Michigan Bank Corporation*, Holland, Michigan; to acquire 100 percent of the voting shares of FMB-Trust and Financial Service, National Association, Holland, Michigan, a *de novo* bank.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Spearman Financial Corp.*, Wilmington, Delaware; to become a bank holding company by acquiring 99.5 percent of the voting shares of First National Bank, Spearman, Texas.

Board of Governors of the Federal Reserve System, May 21, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-12466 Filed 5-24-91; 8:45 am]

BILLING CODE 6210-01-F

Union Bank of Switzerland, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would

not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than June 17, 1991.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Union Bank of Switzerland*, Zurich, Switzerland; to acquire 100 percent of the voting shares of Chase Investors Management Corporation New York, New York, New York, and thereby engage in acting as investment or financial advisor by providing portfolio investment advice and investment management services to institutions and individuals pursuant to § 225.25(b)(4) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *National City Corporation*, Cleveland, Ohio; to acquire Consolidated Data-Tech, Inc., La Palma, California, and thereby engage in data processing and related services to business customers pursuant to §§ 225.25(b)(7) and (b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 21, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-12467 Filed 5-24-91; 8:45 am]

BILLING CODE 6210-01-F

Craig C. Wilcox; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has 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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice 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 indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than June 17, 1991.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Craig C. Wilcox*, Grand Rapids, Minnesota; to acquire an additional 20.95 percent of the voting shares of Wilcox Bancshares, Inc., Grand Rapids, Minnesota, for a total of 50.09 percent, and thereby indirectly acquire Grand Rapids State Bank, Grand Rapids, Minnesota.

Board of Governors of the Federal Reserve System, May 21, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-12465 Filed 5-24-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Meetings; Advisory Committees

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following advisory committees scheduled to meet during the month of June 1991:

Name: Health Care Technology Study Section

Date and Time: June 10-11, 1991, 8 a.m.

Place: Holiday Inn—Crowne Plaza, Parklawn Room, 1750 Rockville Pike, Rockville, Maryland. Open June 10, 8 a.m. to 9 a.m. Closed for remainder of meeting.

Purpose: The Study Section is charged with conducting the initial review of health services research grant applications addressing the utilization and effects of health care technologies and procedures as well as applications in the area of information and decision sciences relating to health care delivery.

Agenda: The open session on June 10 from 8 a.m. to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. The closed sessions of the meeting will be devoted to a review of health services research grant applications emphasizing medical care technologies and procedures, and relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter

sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Alan E. Mayers, Ph.D., Agency for Health Care Policy and Research, room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Name: Health Services Developmental Grants Review Subcommittee

Date and Time: June 5-7, 1991, 8 a.m.

Place: Holiday Inn—Bethesda, Room to be announced, 8120 Wisconsin Avenue, Bethesda, Maryland.

Open June 5, 8 a.m. to 9 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing to do analysis of data derived from experiments and demonstrations designed to test the cost-effectiveness or efficiency of particular methods of health services delivery and financing, for the research grants program administered by the Agency for Health Care Policy and Research.

Agenda: The open session of the meeting on June 5 from 8 a.m. to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing research and demonstration grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Gerald E. Calderone, Ph.D., Agency for Health Care Policy and Research, room 18A20, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Name: Health Services Research Dissemination and User Liaison Advisory Committee

Date and Time: June 18-19, 1991, 8:30 a.m.

Place: Hyatt Regency Bethesda, Diplomat Ambassador Room, One Bethesda Metro Center, Bethesda, Maryland. Open June 18, 1:30 p.m. to 3:30 p.m., and June 19, 9 a.m. to 9:45 a.m. Closed for remainder of meeting.

Purpose: The Committee is charged with the review and making recommendations on grant applications for Federal support of conferences, workshops, meetings, or projects related to dissemination and utilization of research findings, and agency liaison with health care policy makers, providers, and consumers.

Agenda: The open sessions of the meeting on June 18 from 1:30 p.m. to 3:30 p.m., and June 19 from 9 a.m. to 9:45 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed portions of the meeting, the Committee will be reviewing grant applications relating to the dissemination of research on the organization, costs, and efficiency of health care. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mrs. Linda Blankenbaker, Agency for Health Care Policy and Research, room 18A20, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Name: Health Services Research Review Subcommittee.

Date and Time: June 12-13, 1991, 9 a.m.

Embassy Suites, Chevy Chase II Room, 4300 Military Road, Northwest, Washington, DC. Open June 13, 9 a.m. to 9:30 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research.

Agenda: The open session of the meeting on June 13 from 9 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing analytical and theoretical research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these later sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Christine T. Parker, Ph.D., Agency for Health Care Policy and Research, room 18A20, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Agenda items are subject to change as priorities dictate.

Dated: May 21, 1991.

J. Jarrett Clinton,

Administrator, Agency for Health Care Policy and Research.

[FR Doc. 91-12547 Filed 5-24-91; 8:45 am]

BILLING CODE 4160-90-M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings in June

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Correction of meeting notices.

SUMMARY: Public notice was given in the *Federal Register* on May 3, 1991, Volume 56, No. 86, on page 20431 that:

(1) The Behavioral Neurobiology Subcommittee of the Neurosciences Research Review Committee, NIMH, would meet June 6-8 at the Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, Washington, DC. The location of this meeting has been changed to the Channel Inn, 650 Water Street, SW., Washington, DC 20024.

(2) The Board of Scientific Counselors, NIMH, would meet June 6-8 in Bethesda, MD. This committee meeting has been canceled.

(3) The Cognition, Emotion, and Personality Research Review Committee, NIMH, would meet June 6-8 at the Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814. The location of this meeting has been changed to the Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Bethesda, MD 20815.

Dated: May 21, 1991.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91-12433 Filed 5-24-91; 8:45 am]

BILLING CODE 4160-20-01

Food and Drug Administration

[Docket No. 91N-0193]

Drug Export; IM[®]X AUSAB[®]

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Abbott Laboratories, Inc., has filed an application requesting approval for the export of the biological product IM[®]x Ausab[®] in vitro diagnostic test system to Japan.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human 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 Abbott Laboratories, Diagnostics Division, Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product IM[®]x Ausab[®] in vitro diagnostic test system to Japan. The IM[®]x Ausab[®] in vitro diagnostic test system is a microparticle enzyme immunoassay (MEIA) for the quantitative and qualitative determination of antibody to hepatitis B surface antigen (Anti-HBs) on the IMx analyzer. The application was received and filed in the Center for Biologics Evaluation and Research on April 5, 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 June 7, 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: May 8, 1991.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 91-12432 Filed 5-24-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91P-0043]

Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the notice published in the *Federal Register* of April 2, 1991 (56 FR 13460), announcing that a temporary permit had been issued to Safeway, Inc., for the market testing of a product designated as "nonfat cottage cheese" that deviates from the U.S. standards of identify for cottage cheese (21 CFR 133.128), dry curd cottage cheese (21 CFR 133.129), and lowfat cottage cheese (21 CFR 133.131). The notice incorrectly stated, "The permit provides for the temporary marketing of a total of 400,000 pounds (181,440 kilograms) of the test product to be packaged in 16-ounce (454-gram) containers." It should have stated, "The permit provides for the temporary marketing of a total of 1,100,000 pounds (500,000 kilograms) of the test product." This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0112.

In FR Doc. 91-7729, appearing at page 13480 in the *Federal Register* of Tuesday, April 2, 1991, the following correction is made: On the same page, in the third column, in the second complete paragraph, in the second line, " * * 400,000 pounds (181,440 kilograms) of the test product to be packaged in 16-ounce (454-gram) containers." is

corrected to read " * * 1,100,000 pounds (500,000 kilograms) of the test product."

Dated: May 20, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-12484 Filed 5-24-91; 8:45 am]

BILLING CODE 4180-01-M

[Docket No. 91B-0158]

Generic Drug Program; Development of a Monograph System; Request for Recommendations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is examining its administrative policies and procedures pertaining to the review and approval of generic drug products. FDA has received proposals and heard suggestions regarding the development and use of a monograph system for the approval of generic drug products. In general, a monograph would establish a public standard for the marketing approval of generic drug products. The standards could include information on the product's active and inactive ingredients, method of manufacturing, bioequivalence, and labeling. FDA invites interested persons to submit specific comments and recommendations on this concept and will consider any comments and recommendations it receives in deciding whether a monograph system should be developed.

DATES: Written comments and recommendations by August 26, 1991.

ADDRESSES: Submit written comments and recommendations to the Dockets Management Branch (HFA-305), Food and Drug Administration, room, 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Center for Drug Evaluation and Research (HFD-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8049.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is examining its operating policies and procedures pertaining to the review and approval of abbreviated new drug applications (ANDAs). This action represents a continuation of a plan announced by the Secretary of Health and Human Services and the Commissioner of Food and Drugs on

August 18, 1989, to improve FDA's generic drug review program, ensure the safety and effectiveness of generic drugs, and further strengthen the generic drug review system to prevent corrupt and fraudulent practices.

The Drug Price Competition and Patent Term Restoration Act of 1984 (the 1984 Amendments) authorized the submission of ANDAs for generic versions of "innovator" or "pioneer" drugs that were first approved after 1962. In general, the safety and effectiveness of a particular drug product are established by the pioneer firm's new drug application (NDA), so the 1984 Amendments authorize FDA to approve generic versions of approved drugs that have been shown through the ANDA review process to be the same as the pioneer drug. For most drug products, the 1984 Amendments require each applicant who submits an ANDA to provide information demonstrating, among other things, that: (1) The conditions of use prescribed, recommended, or suggested in the labeling for its proposed drug product have been previously approved for the pioneer drug; (2) the active ingredient in the proposed drug product is the same as that in the pioneer drug or, if the drug has more than one active ingredient, that all active ingredients are the same as the active ingredients in the pioneer drug; (3) the route of administration, dosage form, and strength of the proposed drug product are the same as those of the pioneer drug; (4) the proposed drug product is bioequivalent to the pioneer drug; and (5) the labeling for the proposed drug product is the same as that for the pioneer drug. (See 21 U.S.C. 355(j)(2)(A).) FDA published a proposed rule on ANDAs in the Federal Register of July 10, 1989 (54 FR 28872), implementing the statutory requirements contained in the 1984 Amendments for ANDA approval.

The 1984 Amendments also authorized the agency to release safety and effectiveness data that were submitted in an application for a pioneer drug upon the effective date of the approval of the first ANDA for that drug or upon the date upon which an ANDA could have been made effective had an ANDA been submitted (21 U.S.C. 355(l)). However, the statute does not permit FDA to release such information if "extraordinary circumstances" are shown.

In many cases, ANDA applicants have also been unable to acquire important information about a pioneer drug product, including information about the product's chemistry and method of manufacture. The lack of available information has created problems for

ANDA applicants attempting to meet statutory requirements for generic drug product approval. The agency believes that a public monograph system may alleviate some of these problems by assisting generic drug manufacturers in manufacturing drug products that meet marketing approval standards. FDA also believes that a monograph system may streamline the ANDA review process and assist the agency in its administration of that process. A monograph system may have the potential to help ensure generic drug safety and effectiveness and increase public confidence in generic drug products.

A. Monographs and Generic Drug Products: Recent Comments and Suggestions

On April 6, 1990, the chairman of the House Subcommittee on Oversight and Investigations wrote to the former Acting Commissioner of Food and Drugs to make several comments and suggestions on FDA's and ANDA regulations and procedures. One comment stated:

The FDA should consider replacing the existing system of abbreviated new drug application (ANDA) approvals with a monograph approach in which the agency establishes and makes public the chemistry and any special bioequivalence requirements (and attendant testing procedures) for the manufacture of generic drugs. Labeling of generic products could also be specified in the monograph, eliminating that part of the ANDA review process entirely. The agency currently approves antibiotic and over-the-counter drug approvals under monograph approaches.

Under this approach, the FDA would develop such monographs for products now in the pipeline and require innovator companies to develop such monographs as a condition of new drug application (NDA) approval for future drug products. Such a system appears feasible, would likely improve the quality of generic drugs, and would minimize the incentive for payoffs and fraud. In particular, binding monographs would eliminate the inconsistency of chemistry and bioequivalence requirements among reviewers which formed the basis for the recent scandal and created concern about the competence of the FDA's review.

Also, binding monographs could establish standards for certain of the most frequently filed supplements for broad therapeutic range drugs. These would include change of facility, change of supplier of active ingredient raw material, change of supplier of excipients, change of the container closure system, and change in label.

(Letter from the Honorable John D. Dingell, chairman of the Subcommittee on Oversight and Investigations, to James S. Benson, Acting Commissioner

of Food and Drugs, April 6, 1990, pp. 1 and 2.)

The U.S. Pharmacopeia Convention (U.S.P.C.) presented a different monograph system in a statement before the Blue Ribbon Committee on Generic Medicines (Blue Ribbon Committee). The statement noted the U.S.P.C.'s role in publishing the United States Pharmacopeia (U.S.P.) and the National Formulary (N.F.). According to the statement, the U.S.P. and the N.F. "contain continuously revised monographs for over 3,300 drugs and other articles." (Statement of Jerome A. Halperin, Executive Director, U.S. Pharmacopeial Convention, Inc., before the Blue Ribbon Committee, June 20, 1990, p. 1.) The U.S.P.C. proposed that the sponsor of the first NDA for a drug submit a draft U.S.P. monograph, as part of the application. Under this proposal,

The draft monograph could contain the bioavailability requirements, if inclusion of such requirements is found to be feasible and advisable * * *. The draft monograph would be reviewed by the NDA chemist and when determined to meet FDA standards, transmitted to USP upon approval of the NDA. The USP and the Committee of Revision would publish the monograph in the form provided by FDA and agree not to subject it to the revision process for a certain period of time post approval (e.g. three years) without the concurrence of both the FDA and the NDA holder unless the drug became multisource or a problem surfaced, such as with international trade of the drug. (Id. at p. 3.)

The U.S.P.C. stated that its proposed monograph system would contain requirements for strength, quality, purity, packaging, and labeling and that "Standards established in USP monographs and General Chapters would be public to the maximum extent; subject to public scrutiny, and public participation in revision." (Id. at p. 4.)

The U.S.P.C. encouraged new drug manufacturers to provide reference standards materials to the U.S.P.C. for use in developing official chemical reference standards and indicated that, while the FDA's antibiotic monograph system could serve as a model for a generic drug product monograph system, U.S.P. monographs could be updated much more easily than FDA's antibiotic monographs. (Id. at pp. 4 and 5.)

On November 15, 1990, the Blue Ribbon Committee created by the Generic Pharmaceutical Industry Association (GPIA) issued a report titled "Generic Medicines: Restoring Public Confidence." This report identified several problems with a generic drug monograph system, such as difficulties in specifying chemistry review criteria, manufacturing equipment and processes

used, and bioequivalence requirements. The report also expressed some concern that pioneer drug manufacturers, if given the responsibility of preparing a monograph as part of an NDA, would be tempted to develop "unnecessarily narrow or restrictive criteria in order to discourage generic competition" and that FDA "would not have the benefit of the extensive chemistry, pharmacokinetic, and pharmacodynamic database expanded by many scientific studies, mostly carried out by academic, industrial, and government scientists not associated with the innovator, which typically only becomes available after a drug product is approved for marketing." Consequently, the Blue Ribbon Committee did not endorse a generic drug monograph system for the first group of ANDA's for a particular drug product, but did recommend "developing guidance and expanding the existing USP monographs to include what is learned during reviews of the group of 'first-in' ANDA's to provide additional guidance to subsequent ANDA applicants on chemistry, bioequivalence, and perhaps labeling." (Generic Pharmaceutical Industry Association, "Generic Medicines: Restoring Public Confidence," November 15, 1990, pp. 14 to 16.)

These comments are available in their entirety under the docket number listed in the heading of this document.

B. FDA's Experience with Monograph Systems

FDA has monograph or monograph-like systems in place for certain drug products and has, at other times, considered the use of monographs for other products. These systems and proposals could serve as a model for a generic drug product monograph system and are described below.

C. Antibiotic Drug and Insulin Monographs

Sections 506 and 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356 and 357) require the Secretary to provide for the certification of drugs composed wholly or partly of insulin and of antibiotic drugs, respectively. Both provisions direct the Secretary to promulgate regulations for such certification and state that the regulations shall contain provisions prescribing:

- (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5)

such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. (21 U.S.C. 356(b), see also 21 U.S.C. 357(b).)

The regulations, which are at 21 CFR part 429 (for insulin) and 21 CFR parts 440 to 460 (for antibiotics), contain standards and specifications for insulin and antibiotic drug products and are based on information contained in the marketing application for the drug product. Thus, these regulations serve as public standards that are applied, along with other requirements, during the FDA approval process for generic versions of those products.

D. Over-the-Counter (OTC) Monographs

The Drug Amendments of 1962 (Pub. L. 87-701) require applicants to show that their drug products are both safe and effective. The amendments prompted FDA to examine the effectiveness of OTC drug products. When the OTC drug review program began, over 300,000 OTC drug products, consisting of approximately 700 active ingredients, were on the market. Therefore, rather than review products individually, FDA developed a program to review active ingredients and to group them into classes or therapeutic categories. FDA classifies the active ingredients in three ways: category I (generally recognized as safe and effective and not misbranded); category II (not generally recognized as safe and effective or is misbranded); and category III (insufficient data to permit classification).

The review process itself has involved three-steps. First, advisory panels reviewed data submitted by drug manufacturers and other parties and presented their findings and a recommended monograph to FDA. The recommended monographs include standards on active ingredients, labeling indications, warnings and adequate directions for use, and other conditions necessary for the drug's safety and effectiveness. (See 21 CFR 330.10(a)(5)(i).) They do not, however, contain information on inactive ingredients, bioavailability, or method of manufacturing. FDA publishes these recommendations in the **Federal Register** and requests public comment on them. (See 21 CFR 330.10(a)(6).) Second, after reviewing the advisory panels' findings and public comments, FDA publishes a "tentative final monograph" in the **Federal Register**, "establishing conditions under which a category of OTC drugs is generally recognized as safe and effective and not misbranded," and provides opportunities for public comment or for

an administrative hearing. (See 21 CFR 330.10(a)(7).) Finally, after reviewing any comments or objections to the tentative final monograph and any new data and upon the completion of any administrative hearing, FDA publishes a final monograph. See 21 CFR 330.10(a)(9). The agency has published a number of final monographs in several drug categories, such as antacid and anthelmintic drug products, and these monographs can be found at 21 CFR parts 331 through 357.

The OTC drug monograph system in use today allows firms to market an OTC drug product without any product specific review providing the product conforms to a published monograph. (See 21 CFR 330.13.) As noted, however, these monographs are usually limited to standards on active ingredients labeling indications, warnings and adequate directions for use, and any other conditions necessary for the drug's safety and effectiveness; they generally do not contain information on inactive ingredients, bioavailability, or method of manufacturing.

E. Proposals for Prescription Drug Monographs

During the mid-1970's, the agency explored the possibility of using a monograph system for regulating prescription drugs.

On June 20, 1975, FDA announced its intent to create a monograph system for regulating prescription drugs. (See 40 FR 26142 and 26146.) The monographs would have specified the conditions under which a drug could be marketed without prior FDA approval and would have included items such as complete labeling, product specifications, dosage information, bioavailability data, and analytical methods. (See McEniry, "Drug Monographs," Food, Drug, Cosmetic Law Journal, vol. 29, p. 168 (1974); 40 FR 26142 at 26148.) FDA's plan was to publish the monographs as regulations in the Federal Register and the Code of Federal Regulations (40 FR 26142 at 26151). Most drugs that would have been selected for the monograph process would have been those generally recognized as safe and effective under the Drug Efficacy Study Implementation Program. (See McEniry, "Drug Monographs," Food, Drug, Cosmetic Law Journal, Vol. 29, p. 169 (1974).) However, FDA never issued a rule establishing such a system for prescription drug monographs.

In 1978, FDA examined a comprehensive monograph system as part of the proposed Drug Regulation Reform Act of 1978. The bill would have required a manufacturer developing a "new drug entity" to seek approval of a

monograph for that entity as well as a marketing application for the product. (See Department of Health, Education, and Welfare, "Drug Regulation Reform Act of 1978, Section-by-Section Analysis," at p. 16 (1978).) The monograph would identify the drug entity, state the indications for which the product had been determined to be safe and effective, describe the products that could be licensed under the monograph, contain samples of physician and patient labeling (as an appendix to the monograph), and prescribe product standards and requirements. (Id. at pp. 15 to 19.) The bill would also authorize the release of scientific data related to risk and effectiveness, including full reports of the clinical investigations. The bill, however, was never enacted.

II. Request for Comments and Recommendations

The agency believes that there may be merit in a monograph system for generic drug products. Such a system could result in a more efficient and uniform generic drug review and approval process, stimulate competition, and reduce costs to the agency, to consumers, to industry, and, ultimately, to the Federal Government's reimbursement programs under titles XVIII and XIX of the Social Security Act.

FDA is aware that a monograph system may necessitate disclosure of information about the pioneer drug product, including information about manufacturing methods, that the research industry might consider to be proprietary information. The disclosure of such information may, therefore, be viewed as having a potential adverse economic impact on future sales of pioneer drug products. Nevertheless, the agency believes that the availability of such information could significantly assist generic drug manufacturers in replicating pioneer drug products, ensuring generic drug safety and effectiveness, and increasing public confidence in generic drug products. A monograph system that contains detailed information on product formulation, method of manufacture, and method of assay would also increase assurance of the uniformity of all generic versions of a drug product and reduce potential drug quality problems associated with product variability. Thus, FDA is also interested in comments as to whether some type of consideration, such as a change in the patent term or marketing exclusivity period, should be extended to the pioneer drug industry in exchange for agreeing to the disclosure of information

that has previously not been made available. Comments might also address other legal issues, such as the need for additional legislation, the disclosure of information on the pioneer drug, and the impact of a monograph system on the ANDA provisions at 21 U.S.C. 355(j).

Therefore, with this notice, FDA invites persons to submit comments and recommendations regarding the possible development and use of a monograph system for generic drug products. In addition to the items mentioned above, the agency specifically invites comments on the following issues:

1. How should monographs be used? Should they be used as a substitute for the existing review and approval process or should they be used to supplement the existing review and approval process? How would monographs work under either scenario?

2. Who should prepare a monograph? As noted above, some proposals would have the pioneer manufacturer prepare the monograph as part of its NDA. Other proposals would have FDA or other organizations prepare the monograph.

3. What information should be contained in a monograph? Some proposals would create monographs that would include bioequivalence standards and detailed information about the method of manufacture. Other proposals would be limited to chemistry and labeling information. Should a monograph contain sufficient information on the product's chemistry and manufacturing, including information on excipients and synthesis, to enable a firm to produce an identical product? Currently, ANDA applicants may not have access to such information. How detailed should bioequivalence standards be? Are the bioequivalence guidances that FDA has been issuing appropriate models?

4. When should a monograph be prepared? For example, should monographs be prepared before the pioneer drug product is approved or at the time of approval? Or should the monograph be prepared after there has been some experience with the drug product? As noted in one of the proposals, valuable bioequivalence information may be acquired after marketing experience with the first generic drug product. If a monograph is prepared before or at the time of initial approval, the bioequivalence information would not have the benefit of such postmarketing experience.

5. What procedures should FDA establish for issuing and revising monographs? Should monographs be promulgated through notice and

comment rulemaking? If not, what procedures should be used?

6. How should deviations from the monograph for a different active ingredient in a combination product, a new strength or new dosage form or route of administration, etc., be addressed, if permitted?

FDA will review all comments and recommendations submitted in response to this notice along with those already received by the agency in deciding whether to develop a monograph system for generic drug products.

Interested persons may, on or before August 26, 1991, submit written comments or recommendations to the Dockets Management Branch (address above). Two copies of any comments or recommendations are to be submitted, except that individuals may submit one copy. Comments or recommendations are to be identified with the docket number found in brackets in the heading of this document. Received comments and recommendations may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 22, 1991.

Gary Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 91-12548 Filed 5-24-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91N-0194]

Drug Export; Colavage™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Block Drug Co., Inc., has filed an application requesting approval for the export of the human drug Colavage™ to the United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Thomas J. Schall, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8054.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the *Federal Register* within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Block Drug Co., Inc., 257 Cornelison Ave., Jersey City, NJ 07302-9988, has filed an application requesting approval for the export of the drug Colavage™, to the United Kingdom. This product is an isotonic and iso-osmotic oral lavage preparation indicated in the cleansing of the gastrointestinal tract prior to colonoscopy or barium x-ray examination. The application was received and filed in the Center for Drug Evaluation and Research on April 30, 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 June 7, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: May 15, 1991.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 91-12485 Filed 5-24-91; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority; Reorganization of the Bureau of Data Management and Strategy

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) is amended to reflect a major realignment of the Bureau of Data Management and Strategy (BDMS) along with some minor changes to the Office of Budget and Administration (OBA). Two divisions are being transferred from the Office of Budget and Administration (OBA) to BDMS. The two divisions affected are the Division of Administrative Systems and the Division of Medicare Operations Support. In addition, two new offices are established in BDMS as a result of consolidating management responsibility for HCFA's major databases. The new offices will be the Office of Information Technology and the Office of Enrollment Systems. The other four offices are the Office of Information Resources Management, the Office of Computer Operations, the Office of Statistics and Data Management, and the Office of Program Systems. In OBA, the Office of Administrative Services is restructured for improved management of the remaining administrative services activities and several division level functional statements in the Office of Human Resources are updated.

The specific changes to Part F are as follows:

- Section FH.20.A.1.b., Division of Staffing and Employee Services (FHA62), is amended to reflect an update to the functional statement for the division. The new functional statement should read as follows:

b. Division of Staffing and Employee Services (FHA62)

- Provides service to all Central Office HCFA components in the areas of recruitment, in-service staffing, and pre-employment investigations for all types of appointments and all occupational classes and levels of work (except Senior Executive Service, Schedule C, and related appointments).

- Provides advice, guidance, and consultation to HCFA supervisory and management officials on such issues as optional staffing mixes, recruitment sources, and qualification factors.

- Interprets regulations, guides, directives, and bulletins related to staffing and personnel services.

- Establishes and maintains the employment data base for routine and special reports and statistical studies related to the employee population.

- Plans and controls the central system for all personnel and payroll employee transaction processes (except U.S. Savings Bonds), serves as the official custodian for all personnel folder clearances, confidential reports, employment agreements and other related areas.

- Plans, administers, and evaluates HCFA-wide employee relations activities.

- Provides general employee and supervisory counseling on such matters as employee/management communication, retirement, life insurance, health plans, worker's compensation claims, and related areas.

- Serves as the central HCFA reference point for inquiries, guidance and interpretation on employee relations matters.

- Processes insurance claims and annuity applications for retirees and survivors of deceased employees. Processes the full range of employee benefit and payroll transaction documents, with the exception of U.S. Savings Bonds.

- Assures due process in adverse personnel actions and provides procedural advice in the processing of grievances and appeals under Agency and negotiated agreements.

- Directs programs for occupational health services, employee health enhancement, physical fitness, and blood assurance programs. Plans and administers the Agency's contract for the Employee Assistance Program. Directs and administers HCFA's child care initiative. Directs the Agency's Voluntary Leave Transfer Program.

- Under direction of the HCFA Deputy Ethics Officer, plans and administers the entire ethics program for both central and regional offices. Reviews financial disclosure reports prior to departmental submittal and coordinates outside activities requests and approvals.

- Section FH.20.A.1.C., Division of Performance and Development (FHA63), is amended to reflect an update of the functional statement for the division. The new functional statement reads as follows:

c. Division of Performance Management and Development (FHA63)

- Provides leadership, direction, and control with respect to HCFA's employee training and career

development activities, performance management, and awards programs in both headquarters and the regions.

- Provides management advisory service concerning the regulatory and procedural aspects of implementing the assigned programs.

- Serves as an Agency representative in dealing with employee/management/union organizations, the Department of Health and Human Services, and other Federal agencies on the issues concerning the Division's programs.

- Plans, coordinates, and executes a wide range of major studies and projects involving performance management, employee development, and awards issues of Agency-wide magnitude.

- Section FH.20.A.3., Office of Administrative Services (FHA5), is deleted in its entirety and replaced by the following new section. The Office of Administrative Services is amended to reflect the transfer of the Division of Medicare Operations Support and the Division of Administrative Systems (except for the telecommunications functions) to BDMS. The new section FH.20.A.3. reads as follows:

3. Office of Administrative Services (FHA8)

- Provides services, policy direction, coordination, and broad operational control of HCFA's voice telecommunication services, administrative services, single-site planning, printing and distribution services, conference management, records and mail services, facilities management, space management, property management, real property management, and related support services.

- Conducts extensive analyses in the areas of facilities management, property management, real property management, environmental safety and security, and space planning for HCFA's single site.

- Determines the overall impact, budget and administrative, of changes in the areas of facilities management, property management, real property management, environmental safety and security, and space planning.

- Coordinates and handles graphics services for the Agency.

a. Division of Facilities Management (FHA81)

- Provides direct services and establishes policy for other HCFA components with respect to facilities management, real property management, space management, supplies, space acquisition, management and maintenance, conference facilities, and parking.

- Develops comprehensive budget estimates for and management of centralized facilities management funds.

- Conducts extensive analyses in the areas of facilities management, space management, real property management, property management, environmental safety and security, printing and distribution management for HCFA's single site.

- Analyzes and determines the budget and administrative impact of changes in the areas of facilities management, space management, real property management, property management, environmental safety and security, printing and distribution management.

- Coordinates all Information Resources Center activities.

b. Division of Safety and Property Management (FHA82)

- Provides direct service and establishes/implements policies and procedures for the HCFA personal property and supply management programs.

- Maintains and operates the warehouse and the computerized property management and accountability system.

- Provides direct service and establishes/implements policies and procedures for environmental safety nationwide, emergency preparedness, civil defense, tort claims, accident and fire prevention, and personal security clearances.

- Conducts special studies and analyses in the areas of personal property and supply management, and environmental safety and security.

c. Division of Telecommunications and Graphics Services (FHA83)

- Manages all activities associated with the operation of HCFA's nationwide voice telecommunications system.

- Conducts extensive research, studies, and analyses associated with voice telecommunications activities in HCFA.

- Develops policies and procedures for nationwide implementation and operation of various voice telecommunications systems in HCFA.

- Develops policies, standards, and procedures for HCFA's graphics management program.

- Provides graphics services to the Agency.

- Serves as the Agency's liaison on all matters concerning graphics policy and the acquisition of graphics supplies and services.

d. Division of Printing and Distribution Services (FHA84)

- Provides printing, reprographic, distribution, and forms management services for HCFA.
- Conducts research, planning, and analyses to determine Agency needs for photocopying equipment and printing services.
- Develops policies, standards, and procedures for HCFA's printing, reprographics, forms, and distribution programs.
- Obtains printing, binding, and distribution services from private vendors under contracts negotiated and entered into by the Government Printing Office (GPO).
- Manages and maintains centralized program (except for research and demonstrations) for the distribution, printing, and reproduction of forms and other printed materials.
- Manages HCFA's acquisition, leasing and utilization of copying equipment.
- Provides HCFA liaison on all forms, distribution, and printing matters with the HHS, the General Printing Office and the Congressional Joint Committee on Printing.
- Sections FH.20.D.1. through FH.20.D.4. are deleted in their entirety and replaced by the new subordinate structure of BDMS. The new sections FH.20.D.1. through FH.20.D.6. read as follows:

1. Office of Information Resources Management (FHE1)

- Plans, organizes, and coordinates the activities required to maintain a HCFA-wide Information Resources Management (IRM) program including the management of funds to support IRM operations and information systems development activities.
- Formulates and executes the HCFA IRM common expense budget and Information Technology Systems (ITS) plans and budget in conjunction with HCFA-wide budgetary submissions to the Department.
- Develops and maintains a process to administer, document, and monitor the software and hardware changes planned and implemented within HCFA.
- Provides systematic identification, assessment, and certification of new, revised, or existing HCFA information systems and processes in accordance with HCFA policies, standards, information plans, and department requirements.
- Develops, coordinates, and directs the HCFA ADP Systems Security Program to ensure the protection of HCFA systems and ADP equipment.

- Designs, evaluates, and performs analyses related to HCFA-wide data administration and data base administration improvement projects.
- Negotiates and administers agreements and provides ADP liaison between HCFA users, the Social Security Administration, and other external organizations for the provision of ADP capacity and support services.
- Formulates strategies, prepares procurement documents, and performs contract administration activities for major contractual agreements through all phases of the systems development life cycle.

a. Division of Information Systems Management (FHE11)

- Direct the planning, design, and maintenance of information systems development standards and database administration policies and standards, including review of work products for compliance with standards, and the support of the Standards Board activities.
- Plans, directs, and coordinates the development and maintenance of a project management and software metrics program to monitor, evaluate, and improve the information systems development processes for HCFA. Directs the establishment and maintenance of the HCFA IRM systems inventory.
- Directs and coordinates the performance of post-implementation reviews for Agency systems to validate that all systems components are maintained concurrently with the operational systems.
- Formulates strategies and performs contract administration activities for major software contractual agreements across all phases of the information systems development life cycle.

b. Division of ADP Planning and Resources Management (FHE12)

- Plans, develops, and implements HCFA-wide policies, procedures and analyses related to IRM planning and ADP resource management.
- Formulates and assures compliance with HCFA's IRM Plan and associated long range strategic and operational plans. Formulates and executes the HCFA Information Technology System (ITS) 5-year plan and the HCFA ADP common expense budget.
- Develops, implements, and maintains a HCFA-wide financial management program to fund and support IRM operations and information systems development activities, all HCFA equipment and related IRM/ADP services.

- Administers the HCFA project management program and performs Agency-wide resource accounting functions to assess and monitor ADP resource utilization.

- Develops, coordinates, and directs the HCFA ADP Systems Security Program.

- Negotiates and administers agreements between HCFA users and other external organizations for the provision of ADP/IRM support services.

- Coordinates HCFA's participation in the Federal Information Processing Standards Program and administers HCFA's ADP/IRM Contract Administration Program.

2. Office of Statistics and Data Management (FHE2)

- Performs strategic planning to enhance program data and analysis to meet program policy development and program assessment requirements.
- Develops, disseminates, and monitors data release policies for HCFA.
- Identifies, documents, and measures the trends in the reliability of program decision support data and information needed to support HCFA's policy development, research, and program assessment goals.
- Represents the Agency as the primary contact with the Department, other Federal agencies, the health care community, and the public for the use and release of HCFA program data.
- Plans, organizes, and coordinates data development and information analysis activities required to identify, develop, implement, and document decision support and statistical analysis processes.
- Provides decision support information and analysis to meet the Agency's research, actuarial, legislative, economic, and policy analysis; and the objectives of the Department's Medical Treatment Effectiveness initiative.

a. Data Release Policy Staff (FHE2-1)

- Defines, develops, and disseminates data release policies and procedures for the Agency.
- Manages the coordination and clearance of data to support epidemiological and health studies, including the preparation and clearance of beneficiary letters for the Administrator's signature.
- Represents the Agency as the primary contact for program data release issues with the Department, other Federal agencies, the health care community, and the public.

- Determines pricing policies for release of HCFA data, i.e., Public Use Files.

- Chairs and provides staff support to the HCFA Data Release Steering Committee.

- Develops and manages Interagency Agreements covering the transfer of program data and the provision of information services to other government entities.

- Monitors the preparation of and compliance with data release agreements with non-HCFA organizations and individuals.

- Develops, implements, and maintains the HCFA Data Release Policy Guide.

- Coordinates all Privacy Act and Freedom of Information Act activities in the Office.

- Plans, coordinates, and manages program data user training conferences, including the design, development, and preparation of instructional and presentation materials.

b. Division of Payment Policy Support (FHE21)

- Develops strategic short- and long-range plans to acquire the data necessary to meet program payment policy development and assessment requirements.

- Organizes and analyzes data to develop the information systems necessary to support the Agency's and the Department's needs for HCFA program data in support of payment policy analysis and related research.

- Defines, develops, and implements quality assurance procedures covering decision support processes to measure and improve the reliability and usefulness of program data for decision support and statistical analysis. Develops statistical analyses and trend data to monitor data reporting and data reliability.

- Provides technical data analysis and processing support required to develop payment rates to advise Senior HCFA management of the information necessary to evaluate the effectiveness of current and proposed health care financing systems, the implications of experimental financing methods on providers and physicians, the cost aspect of the effectiveness of care being received by beneficiaries, and the monetary effects of new legislation on alternative reimbursement methodologies.

c. Decision Support Division (FHE22)

- Develops strategic short- and long-range plans to define, acquire, and measure the reliability of the data and information necessary to support

intramural and extramural health services research to advance the Department's mission. Reviews legislation to define the program decision support activities needed to implement and monitor legislatively-mandated health services research initiatives and program changes.

- Defines, develops, and implements quality assurance programs to measure trends and improve the reliability and usefulness of Medicare program data.

- Plans, organizes, and coordinates activities required to define the sources, uses and reliability of HCFA data to support research, program administration and evaluation, actuarial and statistical initiatives, and the Department's needs for HCFA program data in health services, medical effectiveness and epidemiologic research.

- Performs liaison function to advise researchers, program analysts, and actuaries on the sources, uses and limitations of program data. Provides technical data analysis and processing assistance required to effectively use HCFA program data for decision support.

- Analyzes and organizes information analysis describing the Medicare and Medicaid programs and national health care expenditures and develops information dissemination systems necessary to support the Agency's need for Medicare and Medicaid program data.

- Develops and maintains the sample data sets necessary to support beneficiary-based program surveys and assessments, including support to the Medicare Beneficiary Health Status Registry, the Current Beneficiary Survey, the Medicare History Sample, and the Peer Review Organizations.

- Participates in the development and establishment of data standards used for HCFA programs, including beneficiary enrollment, uniform billing, uniform coding systems, and common reporting systems (e.g., Common Working File).

d. Division of Special Programs (FHE23)

- Develops strategic short- and long-range plans to define and acquire institutional financial data and special medical data on specific Medicare populations.

- Analyzes and organizes data to develop the information systems necessary to support the Agency's and the Department's special program data and information requirements.

- Designs, develops, implements, and operates special program data collection and processing systems, e.g., Hospital Cost Report Information System

(HCRIS) and End Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS), to identify and meet special program data and information needs.

- Defines, develops, and implements quality assurance programs pertaining to special programs systems to improve the reliability and usefulness of program decision support and statistical data.

- Identifies and implements processes and procedures that will take maximum advantage of the multi-tier data processing architecture, as well as to maximize the efficient use of the mainframe to process large scale special program applications.

- Represents the Bureau as primary contact for special program data collection and use issues within the Department and with outside groups.

3. Office of Program Systems (FHE3)

- Handles the receipt, control, edit, quality assurance, and basic monitoring of common working file claims data and input data relating to program management systems, including development and maintenance of ADP application telecommunications software providing access and front end quality control.

- Performs the planning, organization, and coordination activities required to build and control HCFA'S National Claims History databases (NCHDB) for both the Medicare and Medicaid programs and related hardware requirements.

- Implements and maintains the centralized provider survey, certification (including clinical labs), and billing databases which provide on-line query and reply capabilities through a national telecommunications network.

- Provides standard and ad hoc data files and reports on health standards and quality data, intermediary and provider statistical and reimbursement data, and information regarding chain ownership data.

- Designs, implements, maintains, and ensures the continuing operations of software applications which provide access and array NCH and Program Management (PM) data in accordance with the ongoing program management needs of HCFA.

- Develops short- and long-range NCHDB and PM IRM plans to ensure that the proper hardware and software is available to meet the Agency's NCH and PM operations support needs and to support budget development and life cycle planning.

- Defines and coordinates an NCHDB and PM quality assurance program to ensure that the databases are reliable

for use in program development and evaluating ongoing program operations.

- Designs, implements, and maintains a number of computer systems that are used by HCFA to monitor the performance of the fiscal intermediary contracting community.

a. Division of Program Management Systems (FHE31)

- Handles the receipt, control, edit, quality assurance, and basic monitoring of input data relating to program management systems.

- Implements and maintains the centralized provider survey, certification (including clinical labs), and billing databases which provide on-line query and reply capabilities through a national telecommunications network.

- Provides standard and ad hoc data files and reports on health standards and quality data, intermediary and provider statistical and reimbursement data, and information regarding chain ownership data.

- Maintains and enhances the systems that enable HCFA to monitor the quality of claims processing in carrier and intermediary sites.

- Designs, implements, maintains, and ensures the continuing operations of software applications which array Program Management (PM) data in accordance with the ongoing program management needs of HCFA.

- Negotiates user requirements and develops design alternatives, systems specifications, test, conversion and implementation plans, operation plans (e.g., HDC support requirements), and documentation for PM and related applications.

- Defines and coordinates a PM data quality assurance program including the development of process controls, edits and statistical measures to ensure that the databases are reliable for use in program development and evaluating ongoing program operations.

- Manages PM database administration activities directed toward ensuring the integrity of the databases.

- Participates in the development and establishment of data standards used for HCFA programs, including uniform billing, uniform coding systems and common reporting systems.

b. National Claims History Division (FHE32)

- Manages and directs the receipt, control, editing, quality assurance, and basic monitoring of the common working file claims and program liability data.

- Performs the planning, organization, technical consultation, and coordination

activities required to design, develop, document control, and ensure the integrity of HCFA's National Claims History database (NCHDB) for both the Medicare and Medicaid programs and related hardware requirements.

- Defines systems accesses, interfaces, and operational requirements to ensure the efficient development and use of the NCHDB for program purposes.

- Negotiates user requirements and develops design alternatives, systems specifications, test, conversion and implementation plans, operation plans (e.g., HDC support requirements), and documentation for the NCHDB and related applications.

- Defines and coordinates an NCHDB and beneficiary record quality assurance program including the development of process controls, edits, and statistical measures to ensure database validity and integrity for use in program development and evaluating ongoing program operations. Defines and coordinates a beneficiary record quality assurance program to ensure the consistency of data maintained at the Common Working File sites with the enrollment databases.

- Manages NCH database administration activities directed toward ensuring the integrity of the databases.

- Designs, implements, and maintains the Medicaid drug information databases.

- Participates in the development and establishment of data standards used for HCFA programs, including beneficiary enrollment, uniform billing, uniform coding systems, and common reporting systems.

4. Office of Enrollment Systems (FHE4)

- Performs the planning, organization, and coordination activities required to build and control HCFA's Medicare Enrollment database (EDB) and related hardware requirements and software applications.

- Designs, implements, maintains, and ensures the continuing operations of software applications which develop EDB data in accordance with the ongoing program management needs of HCFA, including the ADP operations to prepare bills for the receipt and processing of Medicare premium remittances and the generation of Health Insurance cards.

- Defines and negotiates user requirements, design alternatives, systems specifications, test, conversion and implementation plans, operation plans and documentation for the EDB and related applications.

- Defines and coordinates an EDB quality assurance program, including the

development of process controls, edits, and statistical measures to ensure that the database is reliable for use in program operations and development.

- Coordinates operational and program development requirements for data about Medicare Enrollment with other components within HCFA, the Department, other Federal agencies and local governments, the private sector, and the public. This includes support for the Common Working File by maintaining and providing accurate and timely information regarding beneficiary enrollment status for Medicare claims processing purposes.

a. Division of Enrollment Applications (FHE41)

- Responsible for the integration and coordination of all EDB database design, development and management activities.

- Assures the viability of the databases including maintenance, backup, recovery, on-line access, etc.

- Responsible for the integration of the EDB database(s) with other database systems; planned/proposed systems software efforts; and overall IRM policies.

- Provides a technical review point within OES to insure adequate control, testing, validation, and documentation of all applications database software within the office.

- Receives, controls, edits and validates transactions which affect HCFA's authoritative record of enrollment in the Medicare program.

- Coordinates operational and program development requirements for data about Medicare Enrollment with other components within HCFA, the Department, other Federal agencies and local governments, the private sector and the public. This includes support for the Common Working File by maintaining and providing accurate and timely information regarding beneficiary enrollment status for Medicare claims processing purposes.

b. Division of Capitation and Collection Systems (FHE42)

- Bills and collects Medicare premiums from the direct-paying beneficiary population and from third-party payers such as state agencies, private groups and the Office of Personnel Management.

- Insures that premium-related entitlement data received from other sources (such as the Social Security Administration) is validated and applied properly to HCFA's authoritative database of Medicare enrollment information.

- Enables and records enrollment in and disenrollment from health maintenance organizations and other group health plans.

- Computes the individual capitation amounts due for each beneficiary enrolled in a group health plan, and communicates that information to other automated processes that provide for paying the plans.

- Notifies beneficiaries of their enrollment in group health plans, and supports solicitation of beneficiary participation in managed health care delivery systems.

c. Division of Medicare Operations Support (FHE43)

- Oversees clerical operations and manages work requests to resolve data errors.

- Oversees the receipt, resolution, and response to correspondence concerning Health Insurance questions from a wide variety of sources including beneficiaries, Congressional Offices, Social Security Offices, States, the Railroad Retirement Board (RRB), and others.

- Directs the review of part B payment records and reconciliation related to Medicare billing exceptions and a multitude of exceptions created between SSA, HCFA, and RRB exchange of data.

- Provides clerical support to process accretions and deletions for State Buy-In and third party beneficiaries; ensures investigation of Medicare premium problem cases.

- Directs the processing of applications for enrollment of individuals to receive Supplemental Medical Insurance benefits.

- Coordinates the planning, design, and implementation of major work processes involving outside components. Resolves problems related to Medicare insurance with other HCFA components, regional offices, and SSA components.

5. Office of Information Technology (FHE5)

- Provides applications software support to HCFA headquarters and regional offices in administrative management systems.

- Serves as focal point for the personal computing and office information systems technology use throughout the Agency.

- Develops short and long range plans for administrative, personnel, and financial systems.

- Manages all aspects of the Agency's investment in microcomputing technology.

- Develops and manages the agency's ADP training program.

a. Division of Administrative Systems (FHE51)

- Provides applications software support to HCFA headquarters and regional offices in administrative management systems.

- Provides applications software support services to other HCFA components in the development of administrative systems, including those utilizing microcomputer technology. Responsible for the macro design and evaluation of prototype administrative systems.

- Develops short and long range plans for administrative, personnel, and financial systems.

- Develops appropriate standard and guidelines to govern the development and ongoing support of administrative systems.

b. Division of Office Automation Systems (FHE52)

- Serves as focal point for the personal computing and office information systems technology use throughout the Agency.

- Develops the acquisition strategy for personal computing hardware, software, and services in HCFA—both central and regional offices.

- Manages all aspects of the Agency's investment in microcomputing technology.

- Develops the Agency strategy for the acquisition and use of office information systems technology including the HCFA-wide office automation and electronic mail capabilities.

- Develops user requirements, plans, and implements the use of office information systems technology including text management, imaging, and executive information systems.

- Develops and manages the Agency's ADP training program.

6. Office of Computer Operations (FHE6)

- Directs the planning, budgeting, evaluation, procurement, operation, maintenance, control, and security of all centralized automated data processing (ADP) and data communications (DC) equipment and services for HCFA's Data Center (HDC) which includes: DC activities and equipment; centralized large-scale computers; nationally distributed departmental minicomputers; vendor supplied operating systems; utility software; facilities management and other contracts; and various intra/inter Agency agreements.

- Advises the bureau and HCFA executive staff on ADP and DC issues and concerns and represents HCFA in dealings with Federal and non-Federal agencies and organizations in these areas.

- Serves as the Agency's final technical authority for the approval of the purchase, lease, and maintenance of all ADP and DC equipment and systems.

- Manages the HDC and DC resource planning function to ensure the availability of resources Agency approved projects.

- Develops HDC and DC plans and policies and provides program direction to HCFA staff and contractor support organizations to ensure that the Agency mission is efficiently and effectively met.

a. Technical Research and Planning Staff (FHE6-1)

- Advises the Director, Office of Computer Operations, and executives throughout HCFA components of the impact on the HCFA Data Center (HDC) of new technology and Agency programmatic activities including new requirements and growth.

- Plans, organizes, and directs the acquisition of HDC and DC hardware and software within HCFA. Coordinates the procurement, installation, acceptance, and certification of newly acquired HDC and DC hardware and new/existing vendor maintenance agreements and service requests for installed hardware/software.

- Develops and manages the HDC capacity planning activities. Monitors HDC and DC equipment utilization and capacity, making available the necessary planning reports for all levels of management.

- Performs technical assessments of new products, conducts independent evaluations, and acts as liaison for all beta testing.

- Conducts comprehensive impact analyses on HDC and DC network planning and design to ensure continuity in support of the total HCFA user community. Conducts studies to determine and define HDC and DC user requirements.

- Serves as the Agency representative and inter- and intra-Department liaison for technology changes in the HCFA HDC and DC environment.

- Serves as principal focus and coordinator of HDC involvement for major system designs/redesigns resulting from new technology or significant legislation.

- Provides program direction to contract support organizations to ensure that the Agency mission is efficiently and effectively met.

b. Contract Administration and Utilization Staff (FHE6-2)

- Provides the Director, Office of Computer Operations, with broad ADP

contract administration support, including serving as Project Officer of the Facilities Management Contract (FMC) for the HCFA Data Center (HDC), Agency-wide minicomputer systems, data communication (DC) systems operation, technical support, and maintenance. Also provides contract management expertise to other major ADP contracts, as necessary.

- Provides program direction to contractor support staff to ensure that the Agency mission is effectively and efficiently supported.

- Reviews HDC procurement acquisitions and subsequent contract administration for compliance with Federal and Department standards and regulations, as well as conformance with Agency plans.

- Develops and maintains the HCFA-wide accounting and chargeback system for HDC and DC users, determining and/or recommending the allocation of resources to the user community. Oversees the resource billing to non-HCFA users of the HDC.

- Monitors and analyzes ADP lease, purchase, and maintenance agreements to ensure continuing efficient use of the HDC and DC equipment.

- Develops and manages the HDC, minicomputer, and DC spending plans and estimates for equipment, software, maintenance, supplies, and support services.

- Prepares and controls contract performance evaluation procedures including the specification of evaluation periods, award fee criteria, evaluation categories, and performance measurement controls.

c. Division of Data Center Services (FHE61)

- Directs the planning, budgeting, operation, maintenance control, and security for the HCFA Data Center (HDC) data processing resources and related support facilities (backup power, environmental systems, fire protection, etc.).

- Develops standards and policies for efficient use of the HDC. Effects these policies and standards through software and hardware controls.

- Manages, evaluates, installs, and maintains HDC operating systems software, utility software products, and data base management systems (DBMS).

- Plans, organizes, schedules, and controls activities required to maintain a contingency and disaster recovery plan for the HDC.

- Develops HDC operations policies, operational plans, and technical guidelines, and provides program direction to contractor support organizations to ensure that the Agency

mission is efficiently and effectively met.

d. Division of Data Communications and Distributed Services (FHE63)

- Directs and manages HCFA's data communications (DC) and minicomputer systems at central and regional HCFA sites, including the Agency-wide installations/relocations of microcomputer, minicomputer, and DC equipment.

- Manages the evaluation and implementation of minicomputer hardware, operating system, and utility software products. Establishes workload planning and controls and schedules services to be provided.

- Assists in the evaluation and implementation of application software and other office automation products for operation on the minicomputer systems.

- Conducts studies to determine DC network requirements and provides technical advice and consultation to the DC user community.

- Directs and manages the HCFA Data Center (HDC) action desk providing on-line assistance for resolving HDC user problems.

- Develops DC, minicomputer, and action desk operating plans and policies and provides program direction to contractor support organizations to ensure that the Agency mission is efficiently and effectively met.

Dated: May 14, 1991.

Gail R. Wilensky,
Administrator, Health Care Financing
Administration.

[FR Doc. 91-12486 Filed 5-24-91; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

National Center for Research Resources; Meeting of the Biomedical Research Technology Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biomedical Research Technology Review Committee, National Center for Research Resources, National Institutes of Health.

This meeting will be open to the public as listed below for a brief staff presentation on the current status of the Biomedical Research Technology Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public as listed

below for the review, discussion and evaluation of individual grant applications submitted to the Biomedical Research Technology Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biomedical

Research Technology Review

Date of Meeting: June 27-28, 1991

Place of Meeting: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852

Open: June 27-8 a.m.-9 a.m.

(Approximately)

Closed: June 27-9 a.m.—Recess; June 28-8 a.m.—Adjournment.

Mr. James J. Doherty, Information Officer, NCRR, Westwood Building, room 10A15, National Institutes of Health, Bethesda, MD 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Ismael Almodovar, Scientific Review Administrator of the Biomedical Research Technology Review Committee, National Center for Research Resources, National Institutes of Health, 5333 Westbard Avenue, room 10A14, Bethesda, MD 20892, (301) 496-9971 will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 93.389, Biomedical Research Support, National Institutes of Health)

Dated: May 8, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-12534 Filed 5-24-91; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Research Training Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Research Training Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 23, 24, and 25, 1991, at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on June 23, from 8 p.m. to approximately 9:30 p.m. to discuss administrative details and to hear reports concerning the current status of

the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 24, from approximately 8 a.m. until adjournment on June 25, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Kathryn Ballard, Scientific Review Administrator, NHLBI, Westwood Building, room 550, Bethesda, Maryland 20892, (301) 496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: May 8, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-12535 Filed 5-24-91; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Trials Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, June 23-25, 1991, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland, 20815.

The meeting will be open to the public on June 23, from 7 p.m. to approximately 8 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting

will be closed to the public on June 23, from approximately 8 p.m. to 10 p.m., on June 24, from approximately 8 a.m. to 6 p.m. and on June 25 from approximately 8 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. David M. Monsees, Jr., Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Westwood Building, room 550B, Bethesda, Maryland 20892, (301) 496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; 13.839, Blood Diseases and Resources Research, National Institutes of Health).

Dated: May 8, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-12536 Filed 5-24-91; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Heart, Lung, and Blood Research Review Committee A

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 20-21, 1991 in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 20, 1991 from 8 a.m. to approximately 9 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92-463, the meeting

will be closed to the public on June 20 from approximately 9 a.m. until recess and from 9 a.m. until adjournment on June 21, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236 will provide a summary of the meeting and a roster of the committee members.

Dr. Robert M. Chasson, Executive Secretary (Acting), Heart, Lung, and Blood Research Review Committee A, Westwood Building, room 552, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health)

Dated: May 8, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-12537 Filed 5-24-91; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Heart, Lung, and Blood Research Review Committee B

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 20, 1991 in Building 31, Conference Room 9, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 20 from 8 a.m. to approximately 9 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in §§ 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and § 10(d) of Public Law 92-463, the meeting will be closed to the public on June 20 from approximately 9 a.m. until adjournment for the review, discussion, and evaluation of individual

grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236 will provide a summary of the meeting and a roster of the committee members.

Dr. Jeffrey H. Hurst, Executive Secretary, Heart, Lung, and Blood Research Review Committee B, Westwood Building, Room 5A-10, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4485, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research, National Institutes of Health)

Dated: May 8, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-12538 Filed 5-24-91; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-010-91-4410-10]

Elko District Advisory Council Meeting

Notice is hereby given that the District Advisory Council for the Elko District, Nevada, will meet on June 12, 1991, in accordance with 43 CFR 1784.6-4. The meeting will be held from 8-9 a.m. in the District Conference Room at 3900 E. Idaho, in Elko. Following the meeting, a field trip to the Marys River will be conducted.

The agenda is as follows:

1. Discussion of the Marys River land management issues;
2. Field trip to Marys River.

The meeting is open to the public, and members of the public may make statements before the Council from 8:30-9 a.m. Persons wishing to make a statement to the Council should contact Lauren Mermejo at the District Office at (702) 753-0200 no later than June 10. Those wishing to accompany the Advisory Council to the Marys River will be required to provide their own transportation.

Dated: May 17, 1991.

Rodney Harris,

District Manager

[FR Doc. 91-12513 Filed 5-24-91; 8:45 am]

BILLING CODE 4310-4C-M

[WY-920-41-5700; WYW72019]

Notice of Proposed Reinstatement of Terminated; Oil and Gas Lease

Pursuant to the provisions of Public Law 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW72019 for lands in Converse County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of \$5.00 per acre, or fraction thereof, per year and 16% percent, respectively.

The lessee has paid the required \$500 administrative fee and \$125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW72019 effective September 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 91-12444 Filed 5-24-91; 8:45 am]

BILLING CODE 4310-22-M

[CO-070-00-4212-13; C-50877]

Pitkin County, Co; Notice of Realty Action—Exchange

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Designation of public lands in Pitkin Country, Colorado, as preliminarily suitable for disposal out of Federal ownership by exchange.

SUMMARY: Pursuant to sections 205, 206, 209, 302(b) and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), the Bureau of Land Management, Glenwood Springs Resource Area, has identified the following-described public lands as preliminarily suitable for exchange. This action is in response to a land exchange

proposal submitted by the Western Land Group, Inc.

Sixth Principal Meridian, Colorado

T. 10 S., R. 86 W.,

Surface and Subsurface Estate

Sec. 3: Lots 15 and 17, SE¼SE¼NW¼

Subsurface Estate Tract 51

The lands described above contain 251.31 acres, more or less. The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, except for disposal by exchange. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant. The segregative effect will terminate upon issuance of a patent, upon publication in the Federal Register of termination of the segregation, or 2 years from the date of this publication, whichever occurs first.

Final determination on disposal will await completion of an environmental assessment. Upon completion of the environmental assessment and the land use decision, a Notice of Realty Action shall be published to specify the selected public lands and the offered private lands proposed for exchange.

FOR FURTHER INFORMATION CONTACT:

Additional information concerning the lands proposed for exchange is available for review in the Glenwood Springs Resource Area Office at 50629 Highway 6 and 24, P.O. Box 1009, Glenwood Springs, Colorado 81602. Comments can be sent to the District Manager, Grand Junction District, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81506.

Dated: May 13, 1991.

Bruce Conrad,

Grand Junction District.

[FR Doc. 91-12551 Filed 5-24-91; 8:45 am]

BILLING CODE 4310-JB-M

[CO-070-01-4930-12-4583; C-50831]

Exchange of Lands in Garfield County, CO

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Exchange of Lands.

SUMMARY: Pursuant to sections 205, 206, 302(b) and 310 of the Federal Land

Policy and Management Act of 1976 (43 U.S.C. 1716), the Bureau of Land Management, Glenwood Springs Resource Area, has identified parcels of public and private land as preliminarily suitable for exchange.

FOR FURTHER INFORMATION: Additional information concerning this proposed exchange, including the planning documents and environmental assessment, is available for review in the Glenwood Springs Resource Area Office at 50629 Highway 6 and 24, P.O. Box 1009, Glenwood Springs, Colorado 81602.

For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Grand Junction District, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81506. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this Notice of Realty Action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: The following-described lands have been determined to be preliminarily suitable for exchange under sections 205, 206, 302(b) and 310 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Selected Public Land—680.00 Acres

T. 3 S., R. 94 W., 6th P.M.

Sec. 33: SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$

T. 4 S., R. 94 W., 6th P.M.

Sec. 28: SW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$

Sec. 34: E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$

Sec. 35: NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$

Sec. 36: NW $\frac{1}{4}$ SW $\frac{1}{4}$

And an administrative access easement through T. 4 S., R. 94 W., Sec. 34: SE $\frac{1}{4}$ NW $\frac{1}{4}$

Offered Private Land—270.00 Acres

T. 4 S., R. 94 W., 6th P.M.

Sec. 33: E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$

Sec. 34: NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$

It is anticipated any adjustments to the selected public land to equalize values would be made in T. 4 S., R. 94 W., Secs. 28, 35, or 36.

These 680.00 acres of public land and the administrative access easement under the jurisdiction of the Bureau of Land Management have been identified as preliminarily suitable for exchange. The determination has been made in response to a Bureau-benefiting exchange proposal developed cooperatively between the Bureau and Aaron C. Woodward.

In the proposal, 270.00 acres of offered private land with public values would be exchanged for 680.00 acres of public

land which have been identified for disposal. The exchange proposal has been made to provide legal access to federal lands and to consolidate public and private land holdings.

The values of the lands to be exchanged have been determined to be approximately equal. Upon completion of the final appraisal of the lands, the acreages will be adjusted or money will be used to equalize the exchange values.

Terms and Conditions

The following reservations would be made in patent issued for public land:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation to the United States of all mineral deposits of known value.

3. A reservation for all existing and valid land uses, including grazing leases, unless waived.

4. The reservation of power line rights-of-way C-0108739, C-22713, and C-23562.

5. The reservation of pipeline rights-of-way C-018388 and C-048809.

6. The reservation of oil and gas leases C-34543, C-36955, C-38437, C-44376, C-44959, and C-51162.

The public lands in T. 4 S., R. 94 W. described above are currently segregated from appropriation under the public land laws, including the general mining laws, under PLO 4522. The publication of the notice in the *Federal Register* will segregate the public lands in T. 3 S., R. 94 W. described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, except for disposal by exchange. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant.

Dated: May 15, 1991.

Bruce Conrad,

District Manager, Grand Junction District.

[FR Doc. 91-12552 Filed 5-24-91; 8:45 am]

BILLING CODE 4310-JB-M

[NV-930-01-4212-13; N-54527]

Elko County, NV; Notice of Realty Action Exchange of Public Lands

The following described public lands are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Mount Diablo Meridian

T. 31 N., R. 51 E.,

Sec. 2, S $\frac{1}{2}$.

T. 32 N., R. 51 E.,

Sec. 36, E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 45 N., R. 51 E.,

Sec. 5, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 7, Lots 1-4, E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 8, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 16, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 17, E $\frac{1}{2}$ E $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 18, Lots 1, 2, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 20, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 38 N., R. 52 E.,

Sec. 1, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, SW $\frac{1}{4}$;

Sec. 2, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;

Sec. 3, Lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;

Sec. 10, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;

Sec. 11, All;

Sec. 12, All;

Sec. 14, E $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;

Sec. 24, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;

Sec. 36, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 39 N., R. 52 E.,

Sec. 3, Lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$

SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$

NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

T. 40 N., R. 52 E.,

Sec. 14, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 15, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 22, E $\frac{1}{2}$ E $\frac{1}{2}$;

Sec. 23, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$;

Sec. 25, Lots 4-6;

Sec. 28, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$;

Sec. 27, E $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,

E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 33, W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$,

W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 34, E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$;

Sec. 35, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;

Sec. 36, Lots 1-6, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

T. 40 N., R. 53 E.,

Sec. 7, Lots 5-9, 12.

T. 33 N., R. 54 E.,

Sec. 2, S $\frac{1}{2}$ SE $\frac{1}{4}$;

T. 41 N., R. 54 E.,

Sec. 1, SE $\frac{1}{4}$;

Sec. 11, N $\frac{1}{2}$ N $\frac{1}{2}$;

Sec. 12, N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 13, NW $\frac{1}{4}$;

Sec. 14, NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 24, Lots 1, 2, 7, 8, N $\frac{1}{2}$.

T. 42 N., R. 54 E.,

Sec. 27, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 34, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$.

T. 30 N., R. 55 E.,

Sec. 12, E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 39 N., R. 55 E.,

Sec. 1, Lots 8, 10, 11, 13, 14, 16, NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 12, Lots 1-4, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$;

Sec. 13, Lots 3, 4, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 23, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$

NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,

SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$,

E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 24, Lots 1-4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 25, Lots 1-4, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$;

Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,

S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,

S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,

S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;

- Sec. 34, E $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 35, Lots 1-4, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 36, Lots 1-7, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$,
 N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 40 N., R. 55 E.,
 Sec. 25, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 36, Lots 2-3 (within), Lot 4, W $\frac{1}{2}$ NE $\frac{1}{4}$,
 E $\frac{1}{2}$ W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 44 N., R. 55 E.,
 Sec. 25, Lots 4, 9, 10, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$
 SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 35, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;
 Sec. 36, Lots 3, 4, N $\frac{1}{2}$ NW $\frac{1}{4}$.
 T. 30 N., R. 56 E.,
 Sec. 6, Lot 7, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 7, Lot 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$,
 SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 8, SW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$
 SE $\frac{1}{4}$;
 Sec. 9, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$
 NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 16, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 17, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$
 NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$,
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 18, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$
 SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$
 NW $\frac{1}{4}$;
 Sec. 20, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$
 NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 32 N., R. 56 E.,
 Sec. 15, S $\frac{1}{2}$;
 Sec. 21, E $\frac{1}{2}$;
 Sec. 22, All;
 Sec. 23, E $\frac{1}{2}$;
 Sec. 33, All;
 Sec. 34, All.
 T. 33 N., R. 56 E.,
 Sec. 26, N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 36, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
 S $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 35 N., R. 56 E.,
 Sec. 16, N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 20, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 30, SW $\frac{1}{4}$ NE $\frac{1}{4}$.
 T. 38 N., R. 56 E.,
 Sec. 4, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 6, Lots 1-7, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,
 E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 8, All;
 Sec. 10, N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 15, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$,
 NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 16, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 18, Lots 1-4, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 30, Lots 1-4, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 39 N., R. 56 E.,
 Sec. 6, Lots 5, 6, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 7, Lot 1, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$
 SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 18, Lots 3, 4, E $\frac{1}{2}$;
 Sec. 19, Lots 1-4, E $\frac{1}{2}$;
 Sec. 30, Lots 1-4, E $\frac{1}{2}$;
 Sec. 31, Lots 1-4, E $\frac{1}{2}$.
 T. 44 N., R. 56 E.,
 Sec. 7, Lot 12 (within), Lot 13;
 Sec. 17, SE $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 30 N., R. 57 E.,
 Sec. 31, Lots 1, 2, E $\frac{1}{2}$ NW $\frac{1}{4}$.
 T. 32 N., R. 57 E.,
 Sec. 6, Lots 1-8, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 8, S $\frac{1}{2}$ NW $\frac{1}{4}$.
 T. 33 N., R. 57 E.,
 Sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 34 N., R. 58 E.,
 Sec. 32, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 35 N., R. 58 E.,
 Sec. 1, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 2, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 10, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 11, NW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 36 N., R. 58 E.,
 Sec. 2, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 34, E $\frac{1}{2}$;
 Sec. 35, S $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$
 NW $\frac{1}{4}$, S $\frac{1}{2}$;
 Sec. 36, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$
 NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$
 SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 31 N., R. 59 E.,
 Sec. 10, Lots 3, 4, 6-10, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$
 SE $\frac{1}{4}$;
 Sec. 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 13, NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 14, N $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 15, Lots 1-3, 6-11, 13-28, N $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 35 N., R. 59 E.,
 Sec. 2, Lot 4;
 Sec. 10, W $\frac{1}{2}$ E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
 Sec. 15, W $\frac{1}{2}$;
 Sec. 18, N $\frac{1}{2}$;
 Sec. 17, All;
 Sec. 18, Lots 1, 2, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$,
 N $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 40 N., R. 59 E.,
 Sec. 26, All;
 Sec. 36, All.
 T. 32 N., R. 60 E.,
 Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$
 NW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 15, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 22, E $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 40 N., R. 60 E.,
 Sec. 3, W $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 12, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 14, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 18, Lots 1-4;
 Sec. 20, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 41 N., R. 60 E.,
 Sec. 19, SE $\frac{1}{4}$;
 Sec. 30, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 36, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 42 N., R. 60 E.,
 Sec. 5, Lot 1 (within), Lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 8, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 43 N., R. 60 E.,
 Sec. 29, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 32, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 32 N., R. 61 E.,
 Sec. 18, Lot 1 (within), NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 33 N., R. 61 E.,
 Sec. 12, S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 13, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 24, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$.
 T. 36 N., R. 61 E.,
 Sec. 26, Lots 6, 7.
 T. 37 N., R. 61 E.,
 Sec. 5, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$;
 Sec. 8, E $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 9, Lots 2-4, Parcels B, C, N $\frac{1}{2}$, NW $\frac{1}{4}$
 SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, Lots 2-4, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 38 N., R. 61 E.,
 Sec. 32, S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 41 N., R. 61 E.,
 Sec. 1, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$.
 T. 42 N., R. 61 E.,
 Sec. 5, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 8, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;
 Sec. 11, SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 14, N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 18, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 23, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 24, W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 25, Lot 1 (within), S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$
 SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 31, Lots 1-6, 8-11.
 T. 33 N., R. 62 E.,
 Sec. 7, Lots 1, 2, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 8, E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 17, N $\frac{1}{2}$, SW $\frac{1}{4}$;
 Sec. 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$,
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 36 N., R. 62 E.,
 Sec. 10, W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$
 SW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 37 N., R. 62 E.,
 Sec. 3, Lots 3-8, 15, 16.
 T. 38 N., R. 62 E.,
 Sec. 30, Lot 2 (within), Lot 4, SW $\frac{1}{4}$ SW $\frac{1}{4}$
 SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$
 SE $\frac{1}{4}$;
 Sec. 31, N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$
 NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 32, W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 39 N., R. 62 E.,
 Sec. 28, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 40 N., R. 62 E.,
 Sec. 36, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,
 E $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 42 N., R. 62 E.,
 Sec. 25, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 27, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 34, Lot 1, Lot 2 (within).
 T. 43 N., R. 62 E.,
 Sec. 24, Lots 2, 3.
 T. 38 N., R. 63 E.,
 Sec. 18, NE $\frac{1}{4}$;
 Sec. 30, Lots 1-2 (within).
 T. 39 N., R. 63 E.,
 Sec. 2, Lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 6, Lots 1-3, 6, 7, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
 SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;
 Sec. 10, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$;
 Sec. 14, W $\frac{1}{2}$ W $\frac{1}{2}$ W $\frac{1}{2}$.
 T. 40 N., R. 63 E.,
 Sec. 32, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 43 N., R. 63 E.,
 Sec. 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 10, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 11, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 19, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 44 N., R. 63 E.,
 Sec. 8, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 16, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 22, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 28, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
 SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 33, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 34, SE $\frac{1}{4}$ SW $\frac{1}{4}$.
 Total Acres 47,302.36.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), subject to valid existing rights, publication of this Notice shall segregate the affected public lands from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, and from any subsequent land exchange proposals filed by any proponent other than Olympic Nevada, Inc., or their nominee.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the Federal Register of a notice of termination of the segregation; or the expiration of two years from the date of publication of this notice, whichever occurs first.

For a period of forty-five days, interested parties may submit comments to the District Manager, Elko District Office, P.O. Box 831, Elko, Nevada 89801.

Dated: May 13, 1991.

Rodney Harris,
District Manager, Elko District Office,
Nevada.

[FR Doc. 91-12553 Filed 5-24-91; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-91-4212-14; N-54291]

Realty Action; Non-Competitive Sale of Public Lands in Clark County, NV

The following described public land in Las Vegas, Clark County, Nevada has been determined to be suitable for sale utilizing non-competitive procedures, at not less than the fair market value. Authority for the sale is section 203 of Public Law 94-579, the Federal Land Policy and Management Act of 1976 (FLPMA). The lands will not be offered for sale until at least 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,

Sec. 28, W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$.

Aggregating 5.00 acres (gross).

This parcel of land, situated in Las Vegas is being offered as a direct sale to Century Pacific Development Company.

This land is not required for any Federal purposes. The sale is consistent with the Bureau's planning system. The sale of this parcel would be in the public interest.

In the event of a sale, conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct

sale offer will constitute an application for conveyance of mineral interests. The applicant will be required to pay a \$50.00 non-returnable filing fee for conveyance of the available mineral interests.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. Oil, gas, sodium, potassium and saleable minerals.

and will be subject to:

1. An easements for streets, roads and public utilities in accordance with the transportation plan for Clark County.

2. Those rights for flood control purposes which have been granted to Clark County by Permit No. N-43234 under the Act of October 21, 1976.

Upon publication of this notice in the Federal Register, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Public Law 94-579, or other applicable laws.

Dated: May 16, 1991.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 91-12495 Filed 5-24-91; 8:45am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Availability of a Draft Environmental Assessment on the Restoration and Expansion of Bear River Migratory Bird Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This Notice advises the public that the Draft Environmental Assessment (DEA) on the restoration and expansion of the Bear River Migratory Bird Refuge (MBR) in Box Elder County, Utah, is available for public review. Comments and suggestions are requested. The U.S. Fish and Wildlife Service (Service) proposes to purchase real property and real property interests on approximately 38,200 acres of private land in the Bear River wetlands complex to expand the Bear River Migratory Bird Refuge. These lands will be actively managed for wetland protection and enhancement for migratory waterfowl and other wetland-dependent species of wildlife. A new office/visitor center and support complex will be located within the acquired area.

DATES: Written comments are requested by July 8, 1991. A public meeting will be held on June 5, 1991, at 7 p.m. at the Brigham City High School, Brigham City, Utah.

ADDRESSES: Comments should be addressed to Al Trout, Refuge Manager, Bear River Migratory Bird Refuge, 866 South Main, Brigham City, Utah 84302.

FOR FURTHER INFORMATION CONTACT: Al Trout, Bear River Migratory Bird Refuge, 866 South Main, Brigham City, Utah 84302, (801) 723-5887.

Individuals wishing copies of the DEA should immediately contact the above person. Copies have been sent to all agencies, organizations, and public who participated in the scoping process. Copies will be available for examination at the Bear River MBR office, the public library in Brigham City, and the Service Regional Office in Lakewood, Colorado.

SUPPLEMENTARY INFORMATION: This DEA addresses the restoration of the existing refuge lands and acquisition of the Bear River MBR addition. It poses four alternative sets of actions and discusses how each would address the objectives of the Service and the Bear River MBR. It describes the pertinent environmental characteristics of the area and it projects how the environment would be affected with the implementation of each of these alternatives.

The No Action Alternative would involve only the application of legislatively mandated State and Federal statutes and regulations which protect wetlands in the project area. There would be no additional purchases of land by the Service and no wetland restoration, creation, or enhancement would occur. The refuge would be

allowed to revert to an appearance preceding development.

Another alternative presented is the Restoration Alternative which involves rebuilding the Bear River MBR to its condition prior to the flooding of the Great Salt Lake. Existing physical features would be repaired and restored to preflood conditions. There would be no additional purchases of land by the Service and public use facilities would be minimal.

An additional alternative is the Enhancement Alternative which involves additional development of existing Service lands. Large marsh units would be subdivided, and the water delivery system would be improved. There would be no additional purchases of land by the Service, and public use opportunities would be similar to the Restoration Alternative.

The Proposed Alternative is the Expansion Alternative which involves Service purchasing real property or real property interests on approximately 38,200 acres of land exclusive of existing Federal land. These lands would be managed for wildlife, public recreation, and educational uses. Additional lands would provide an opportunity for the construction of a visitor center, a new auto tour route, nature trails, and environmental education areas. Compatible public recreational uses on lands acquired would be permitted in accordance with adopted public use regulations for these categories of land areas.

Dated: May 16, 1991.

Galen L. Buterbaugh,
Regional Director, Region 6.

[FR Doc. 91-12498 Filed 5-24-91; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Deadline for Acceptance of Termination Claims for U.S. Government Contracts in Vietnam

AGENCY: Agency for International Development, IDCA.

ACTION: Notice.

SUMMARY: The Agency for International Development (A.I.D.) hereby gives notice that it will accept claims for the termination costs of U.S. Government contracts that are submitted by former citizens of South Vietnam only until September 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Murphy, Chief, Procurement Policy, Planning, and

Evaluation Staff, Bureau for Management Services, Agency for International Development, Washington DC 20523-1435; telephone (703) 875-1533.

SUPPLEMENTARY INFORMATION: After the fall of the Government of South Vietnam, A.I.D. terminated its U.S. Government contracts with local South Vietnamese contractors for the convenience of the government, as of April 29, 1975.

Due to their imprisonment by the successor government and to the restrictions of the U.S. Treasury Department Foreign Assets Control, Sanctions, Transactions, and Funds Control Regulations (31 CFR parts 500-599), many of these contractors were unable to file timely claims for termination costs on their contracts. Therefore, the requirement to file timely claims for termination costs on these contracts under the then governing Federal Procurement Regulation (41 CFR 1-8) was inapplicable.

On August 1, 1985, the Foreign Assets Control, Sanctions, Transactions, and Funds Control Regulations were modified to permit payment to former Vietnamese contractors, based on pro-rata share of ownership, provided these individuals are residents of the United States or other Free-World countries. However, due to the depletion of available funds through the payment of such claims and to the restrictions of Public Law 101-510 on A.I.D.'s access to expired appropriation accounts, A.I.D. hereby gives notice that it will not accept termination claims for such contracts after September 30, 1992.

Dated: May 16, 1991.

John F. Owens,
Procurement Executive.

[FR Doc. 91-12491 Filed 5-24-91; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. 40510]

Jasper Wyman & Son et al.—Petition for Declaratory Order—Certain Rates and Practices of Overland Express, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of right to file comments.

SUMMARY: This declaratory order proceeding, instituted by decision served February 19, 1991, involves an issue of industry-wide importance that is the subject of many pending court and Commission proceedings, i.e., whether

Overland Express, Inc. (respondent), was a participating carrier in the Household Goods Carriers' Bureau Mileage Guide 100 and whether respondent's mileage rates are void and may not form the basis for the undercharges sought in pending Commission proceedings and court cases. The Commission has established a new procedural schedule for the submission of evidence, and interested persons, including any party to a case involving this issue pending before the Commission or in court are invited to file comments in this proceeding.

DATES: Initial comments and petitioners' statement must be filed by June 27, 1991.

Responsive comments and respondent's statement must be filed by July 29, 1991.

Rebuttals must be filed by August 19, 1991.

ADDRESSES: Send pleadings, referring to Docket No. 40510 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and
- (2) Petitioner's representative: William J. Augello, Augello, Pezold & Hirschmann, P.C., 120 Main Street, Huntington, NY 11743.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 275-7691. (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 service (202) 275-1721.)

Decided: May 22, 1991.

By the Commission, Sidney L. Strickland, Jr.
Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 91-12531 Filed 5-24-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 333X)]

Burlington Northern Railroad Co.— Abandonment Exemption—in Butler County, NE; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152, Subpart F—*Exempt Abandonment* to abandon its 1.85-mile line of railroad between mileposts 62.15 and 64.00, in Bellwood, Butler County, NE.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on June 27, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),² and trail use/rail banking statements under 49 CFR 1152.29 must be filed by June 7, 1991.³ Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by June 17, 1991, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Sarah J. Whitley, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental

or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by May 31, 1991. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7884. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: May 20, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 91-12402 Filed 5-24-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department Policy, 28 CFR 50.7, notice is hereby given that on May 15, 1991, a proposed Consent Decree in *United States v. AMF, Incorporated*, C.A. No. 3-91-CV-249 (AHN), was lodged with the United States District Court for the District of Connecticut. Pursuant to sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9606 and 9607, the United States seeks in this litigation to compel nineteen defendants to perform the remedial work identified by EPA for the Laurel Park Landfill Site in Naugatuck, Connecticut and to require these defendants to pay the costs incurred and to be incurred by EPA in connection with this Site.

The proposed Consent Decree embodies an agreement by nineteen defendants to perform the remedial work selected by EPA in its June 30, 1988 Record of Decision and to pay the United States \$500,000 in past costs and all but \$200,000 of future costs.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney

General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. AMF, Incorporated*, DOJ No. 90-11-2-710.

The proposed Consent Decree may be examined at the Region I Office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02202, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202-347-2072).

A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20004. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$28.25 (25 cents per page reproduction cost) for the Consent Decree.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-12492 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint styled *United States v. George Fox College and Elliott-Jochimsen Construction, Inc.* was filed in the United States District Court for the District of Oregon on February 23, 1990. On 5/8/91 a consent decree was lodged with the Court in settlement of the allegations in that complaint. The complaint, brought pursuant to sections 113(b) of the Clean Air Act ("the Act") 42 U.S.C. 7413(b), alleged inter alia that in the process of conducting renovation operations at the George Fox College library, defendants committed various violations of the National Emission Standards for Hazardous Air Pollutants ("NESHAP") for asbestos, promulgated under section 112 of the Act, 42 U.S.C. 7412, and codified at 40 CFR part 61, subpart M. The violations included failure to properly remove, wet, and dispose of asbestos containing material and failure to notify the appropriate regulatory authorities that asbestos containing material was being removed.

Under the terms of the proposed consent decree, the defendants agree to pay the United States the sum of \$131,250.00 in civil penalties for the violations alleged in the government's complaint and further agree to sample

¹ A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

² See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

³ The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

for the existence of asbestos containing material before conducting any future renovation projects.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States v. George Fox College, and Elliott-Jochimsen Construction, Inc.*, D.J. Ref. 90-5-2-1-1448.

The proposed consent decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave. NW., Box 1097, Washington, DC 20004, (202) 347-7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of \$2.50 (25 cents per page reproduction costs) payable to Consent Decree Library. The proposed Consent Decree may also be reviewed at the Environmental Protection Agency:

EPA Region X

Contact: Julianne Matthews, Office of Regional Counsel, U.S. Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101

and the Office of the United States Attorney:

888 S.W. 5th Ave., suite 1000, Portland, OR 97204-2024.

Richard B. Stewart,
Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-12493 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

The National Cooperative Research Act of 1984—DEET Joint Venture

Notice is hereby given that, on April 29, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), McLaughlin Gormley King Co. filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of the parties to the DEET Joint Venture ("Joint Venture"). The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The current members of the Joint Venture are:

Airosol Company, Inc.; Amway Corporation; Bayer AG; Chemical Specialties Manufacturers Association; Chesebrough-Ponds USA; Fuller Brush Company; Hoechst Celanese Corporation; S.C. Johnson Wax; McLaughlin Gormley King Company; Miles, Inc.; Mohawk Laboratories; Morflex, Inc.; "Ole Time" Woodsman (Pete Rickard, Inc.); Schering-Plough Healthcare; Speer Products, Inc.; Tender Corporation; and Wisconsin Pharmacal.

No other changes have been made in either the membership, the objectives or the planned activities of the Joint Venture.

On September 26, 1985, Schering-Plough Healthcare filed the original notification concerning the Joint Venture pursuant to section 6(a) of the Act. The Department of Justice published a notice in the *Federal Register* pursuant to section 6(b) of the Act on October 22, 1985, at 50 FR 42786.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-12494 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Celgene Corp.; Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 6, 1991, and published in the *Federal Register* on March 14, 1991, (56 FR 10926), Celgene Corporation, 7 Powder Horn Drive, Warren, New Jersey 07059, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of 2,5-dimethoxyamphetamine (DMA) (7396), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: May 16, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-12507 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 90-17]

Farone Drugs; Denial of Application

On February 9, 1990, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Farone Drugs (Respondent), 19 East Washington Street, New Castle, Pennsylvania 16101, proposing to deny the pharmacy's application, executed on November 27, 1989, for registration as a retail pharmacy. The Order to Show Cause alleged that the pharmacy's registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f).

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held before Judge Bittner in Pittsburgh, Pennsylvania on August 7 and 8, 1990. On February 12, 1991, the administrative law judge issued her opinion and recommended ruling, findings of fact, conclusions of law and decision. Having received no exceptions during the time period provided in 21 CFR 1316.66, on March 18, 1991, the administrative law judge transmitted the entire record to the Administrator.

On April 2, 1991, the administrative law judge received, and then transmitted to the Administrator, exceptions to her opinion filed on behalf of Respondent and a motion requesting the Administrator to accept the exceptions even though they were not timely filed. On April 4, 1991, Government counsel filed with the Administrator a response to Respondent's motion urging the Administrator not to consider Respondent's exceptions as they were not timely filed. The Administrator hereby denies Respondent's motion. The regulations allow for the filing of exceptions within 20 days of service of the administrative law judge's opinion and recommended ruling. Respondent's exceptions were filed almost one month after the deadline for the filing of exceptions. Accordingly, the Administrator has not considered Respondent's exceptions. The Administrator has considered the record in its entirety, excluding Respondent's exceptions, and pursuant to 21 CFR 1316.67 hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that Gary J. Sperl is the principal stockholder and pharmacist-in-charge of Respondent pharmacy. In May 1981 Gary Sperl purchased Warrendale Pharmacy with a limited partner, Donald Dietz, who would share in the eventual profits of the pharmacy. It was agreed that initially, only Gary Sperl would manage the pharmacy and be paid a salary. In late December 1981, Donald Dietz began working at Warrendale without compensation. The relationship between the two partners eventually deteriorated and Donald Dietz withdrew from the business in May 1982.

In the summer of 1982, according to Gary Sperl, Warrendale Pharmacy was overextended financially. Mr. Sperl further testified at the hearing in this matter that he suspected that one of the pharmacists was stealing from Warrendale Pharmacy. However, even after that pharmacist was fired from the pharmacy in December 1982, he was permitted to work at the pharmacy on an occasional basis.

In February 1983, Gary Sperl was sued by another pharmacist who worked at Warrendale Pharmacy when the pharmacist's paycheck was returned for insufficient funds. On February 9, 1983, after failing to appear at a magistrate's hearing regarding the bad check, Gary Sperl was arrested. During the course of the arrest, a search of Mr. Sperl's truck revealed a gun and a handkerchief containing controlled substances, which were later analyzed as 31 capsules containing the Schedule II controlled substance amphetamine, 27 capsules containing the Schedule IV controlled substance chlordiazepoxide, 32½ tablets containing the Schedule II controlled substance oxycodone, 90 tablets containing the Schedule II controlled substance methylphenidate, and fragments of capsules containing amphetamine and chlordiazepoxide.

As a result, Gary Sperl was charged in the Butler County Pennsylvania Court of Common Pleas with possession with intent to deliver a controlled substance, simple possession of a controlled substance, possession of adulterated and/or misbranded controlled substances, and carrying a firearm without a license. On June 6, 1983, Gary Sperl pled guilty to the charges of carrying a firearm without a license and possession of an adulterated/misbranded substance, both misdemeanors, and the other charges were disposed of by entries of *nolle prosequi*. On August 11, 1983, the court sentenced Gary Sperl to pay the costs of prosecution and placed him on probation for two years.

In February 1983, an agent of the Drug Enforcement Unit of the Pennsylvania Attorney General's Office went to Warrendale Pharmacy to conduct an audit of the controlled substances. However, the agent was unable to accurately audit the substances because the records were in disarray. Specifically, the records were not readily retrievable as required by both Federal and state law; no filing system existed for Schedule II controlled substance invoices; several prescriptions were not filed, but were lying on the pharmacy counter and did not include the address of the patient, the pharmacist's initials, a prescription number, or the quantity dispensed; and DEA order forms were not properly completed.

After receiving the distributor's invoices, the agent conducted a thorough audit on April 8, 1983, which revealed shortages of more than 9,300 dosage units of Percocet; over 4,900 dosage units of Ritalin 5 mg.; 4,190 dosage units of Ritalin 20 mg.; 1,163 dosage units of Biphedamine 10 mg.; 1,788 dosage units of Ritalin 10 mg.; and 182 dosage units of Biphedamine 12.5 mg. The audit further revealed an overage of 124 dosage units of Biphedamine 7.5 mg.

In March and April 1983, state agents interviewed approximately 25 then-current and former employees of Warrendale Pharmacy. During the course of these interviews, it was learned that the pharmacy's controlled substances were easily accessible to non-pharmacists, the recordkeeping was "sloppy", the pharmacy did not always have a registered pharmacist on duty, and a pharmacy intern had on occasion filled prescriptions for controlled substances when no registered pharmacist was present.

As a result of the audit Gary Sperl was charged in Allegheny County, Pennsylvania, with two misdemeanor counts of failure to keep records. On September 19, 1983, Gary Sperl pled guilty to both counts, and was sentenced to six months probation on each count to run consecutively. In addition, he was required to surrender his license to dispense drugs, resulting in his not practicing pharmacy from September 1983 to March 1984.

During the hearing in this matter, Gary Sperl seemed to blame all of the problems at Warrendale Pharmacy on Donald Dietz. However, Mr. Sperl did not indicate why he did not confront his partner or why he allowed the situation to continue. Mr. Sperl believed that the only reason he was held responsible instead of Mr. Dietz was because he was listed as the pharmacy's manager.

Warrendale Pharmacy ultimately filed for bankruptcy and went out of business. On January 19, 1989, the Pennsylvania State Board of Pharmacy issued an order placing Gary Sperl's license to practice pharmacy on probation for 18 months. However, the Board treated the six months Mr. Sperl did not practice in 1983 and 1984 as part of the probation period, so he was effectively on probation for one year.

In September 1989, Gary Sperl began negotiating with Frank Farone, its then-owner, to purchase the Respondent pharmacy. On October 13, 1989, Mr. Farone and Mr. Sperl executed a written agreement dated October 1, 1989, which provided, *inter alia*, that Mr. Farone agreed to permit Mr. Sperl "to use all current permits and licenses until new permits and licenses are obtained as may be necessary." Mr. Sperl argued at the hearing that it was understood that the sale would not be completed or consummated until all necessary permits were obtained. The administrative law judge did not find Gary Sperl to be a credible witness, and as a result, found that Mr. Sperl intended to, and became, the owner of Respondent pharmacy, with all of the responsibilities ownership entails, as of October 1, 1989.

The Pennsylvania State Department of Health requires all pharmacists to file monthly reports listing the names of all persons receiving Schedule II controlled substances, the name of the prescribing physician and the amount dispensed. On February 7, 1990, DEA Investigators went to the Bureau of Narcotics Investigations and Drug Control to review the monthly reports filed on behalf of Respondent pharmacy. The last report filed covered the months of August and September 1989. No reports were filed following Gary Sperl's purchase of the pharmacy. Gary Sperl testified that he assumed that Frank Farone continued to file the reports. The administrative law judge concluded that once Mr. Sperl assumed ownership of Respondent, he also assumed the obligation to insure that the pharmacy complied with applicable state and Federal regulations.

Following his purchase of Respondent pharmacy on October 1, 1989, Gary Sperl continued to use the DEA registration number issued to the pharmacy under Mr. Farone's ownership. Pursuant to 21 CFR 1301.62 and 1301.63, a DEA registration terminates when the person holding the registration ceases doing business, and that a registration may be transferred only upon conditions designated by the Administrator and with his written

consent. Gary Sperl testified that he was unaware that he was violating Federal regulations by operating the pharmacy using Mr. Farone's DEA registration instead of waiting until he had obtained his own number.

On November 27, 1989, Gary Sperl filed the application for registration for Respondent pharmacy which is the subject of this proceeding. While investigating this application, DEA Investigators went to Respondent pharmacy on December 15, 1989, and obtained a copy of the sales agreement. Frank Farone told the Investigators, that in accordance with the agreement, he had allowed Gary Sperl to use his DEA registration from the date of sale, and that the sale included the pharmacy's controlled substance inventory. In addition, Gary Sperl told the Investigators that he purchased Respondent pharmacy from Frank Farone according to the written agreement.

On December 22, 1989, as a result of learning that Gary Sperl was using the DEA registration issued to Frank Farone, DEA Investigators served an administrative inspection warrant on Respondent pharmacy and advised Gary Sperl that the pharmacy was not properly registered with DEA to handle controlled substances. The Investigators then seized all of the controlled substances in the pharmacy and advised Mr. Sperl that he could not possess, purchase or dispense any controlled substances until properly registered, and directed him to contact DEA if he later found any controlled substances on the premises.

In February 1990, Frank Farone contacted DEA and advised that Gary Sperl had dispensed controlled substances after being advised by DEA Investigators on December 22, 1989, that Respondent pharmacy was not authorized to do so. Upon further investigation, the Investigators discovered that Respondent pharmacy purchased over 14,100-dosage units of Schedule III, IV and V controlled substances after December 22, 1989.

On February 20, 1990, a search warrant was executed at Respondent which revealed controlled substances hidden about the pharmacy, in places including the bathroom storage area, shelving units behind non-controlled substances, a file cabinet, behind the sales counter, as well as open areas accessible to the public. Gary Sperl showed Agents and Investigators executing the warrant where some of the substances were hidden and stated that he knew he violated DEA regulations by ordering controlled substances, but said that "he did what

he had to do to feed his family." Further, a search was conducted of Gary Sperl's vehicle which revealed documents regarding prescriptions for controlled substances which were filled after December 22, 1989.

Gary Sperl testified at the hearing in this proceeding that he ordered controlled substances after being told he was not authorized to do so because he feared that Respondent would fail financially if it was not able to handle controlled substances. He further alleged that he ordered the controlled substances because he was concerned that many of his customers were sick with the flu and needed controlled substances. However, Mr. Sperl conceded at the hearing that many of the controlled substances which he purchased after December 22, 1989, are not used in the treatment of colds or the flu.

Several individuals testified on behalf of Gary Sperl and Respondent regarding the need for the pharmacy in the community. However, evidence was presented that there are other pharmacies in the area.

The Administrator may deny an application for a DEA Certificate of Registration if he determines that the registration of the applicant would be inconsistent with the public interest, 21 U.S.C. 823(f). Pursuant to 21 U.S.C. 823(f), the Administrator considers the following factors in determining the public interest: (1) The recommendation of the appropriate state licensing board or professional disciplinary authority; (2) the applicant's experience in dispensing or conducting research with respect to controlled substances; (3) the applicant's conviction record under Federal or State laws relating to the manufacture, distribution or dispensing of controlled substances; (4) compliance with applicable state, Federal or local laws relating to controlled substances; and (5) such other conduct which may threaten the public health and safety.

The Administrator may rely on any one or a combination of those enumerated factors. He may give such factors the weight he deems appropriate in determining whether an application should be denied. See, *Fredal Pharmacy*, 55 FR 53592 (1990); *Henry J. Schwarz, Jr.*, M.D., Docket No. 88-42, 54 FR 16422 (1989); *Neveille H. Williams, D.D.S.*, Docket No. 87-47, 53 FR 23465 (1988); *David E. Trawick, D.D.S.*, Docket No. 86-89, 53 FR 5326 (1988).

In this case, all of the factors are relevant. Gary Sperl's license to practice pharmacy was placed on probation for 18 months. He ordered and dispensed controlled substances when the pharmacy was not registered with DEA

to handle such substances. Gary Sperl was convicted of controlled substance-related offenses in two different courts. While at Warrendale Pharmacy, Mr. Sperl failed to keep complete and accurate records of controlled substances, as evidenced by the audit results, and failed to maintain readily retrievable controlled substance records, in violation of both Federal and state law. While at Respondent pharmacy, Gary Sperl operated the pharmacy using a DEA registration number issued to another, and further violated Federal laws and regulations by continuing to handle controlled substances, knowing that the pharmacy was not so authorized.

Respondent contends that Gary Sperl's 1983 convictions were for misdemeanors; he satisfactorily served his probation; and was held accountable for the shortages at Warrendale Pharmacy only because he was the listed manager. Gary Sperl's state license to practice pharmacy has never been suspended or revoked, and since 1983, he has practiced pharmacy without incident except for his use of the DEA registration issued to Mr. Farone. Respondent also contends that Mr. Farone, rather than Mr. Sperl, should be held accountable for not filing the required state forms regarding Schedule II controlled substances. Gary Sperl argues that his initial operation of Respondent without proper DEA registration was an "inadvertent mistake" and he continued to sell controlled substances at Respondent after being advised he could not lawfully do so in "an effort to keep his newly acquired business operational under the pressing weight of the DEA's imposed financial constraints." Finally, Respondent contends that its continued operation is necessary to the New Castle community.

The administrative law judge concluded that Gary Sperl's 1983 convictions clearly establish that as of that time he had little concern for his obligations as a DEA registrant. Regarding Respondent, it is undisputed that Gary Sperl continued to order and dispense controlled substances after specifically being advised by proper authorities that he could not lawfully do so. Judge Bittner found no merit in Gary Sperl's contention that his violation of Federal regulations, by using Mr. Farone's DEA registration number, was inadvertent, and thus excusable, since knowledge and acceptance of applicable laws and regulations are among the prime responsibilities of a DEA registrant. The administrative law judge was also unimpressed with

Respondent's argument that Gary Spertl was driven by financial hardship and concern for his customers when he handled controlled substances after specifically being instructed not to do so. Judge Bittner concluded that desire to save an ailing business is simply no excuse for violating the law and that Mr. Spertl's purported anxiety for his sick customers failed to explain why he ordered controlled substances which were not used in the treatment of the ailments from which those customers allegedly suffered.

Judge Bittner further concluded that the convenience of having the Respondent pharmacy available to the New Castle community does not outweigh the need to protect the public from a registrant who cannot, or will not, abide by the laws and regulations established to prevent diversion of controlled substances from legitimate to illicit channels. Gary Spertl has proven himself unwilling or unable to carry out the obligations of a DEA registrant in the past and there is no credible evidence that he will be more responsible in the future. Consequently, the administrative law judge concluded that Respondent's registration would be inconsistent with the public interest and recommended that Respondent's application for registration be denied.

The Administrator adopts the opinion and recommended ruling, findings of fact, conclusion of law and decision of the administrative law judge in its entirety. Respondent pharmacy, with Gary Spertl as its owner and managing pharmacist, cannot be trusted to responsibly handle controlled substances. The Administrator concludes that Respondent's registration would be contrary to the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b), hereby orders that the application, executed on November 27, 1989, for registration under the Controlled Substances Act, submitted by Farone Drugs, be, and it hereby is, denied. This order is effective May 28, 1991.

Dated: May 14, 1991.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 91-12500 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Houba, Inc. Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on March 1, 1991,

Houba, Inc., 16235 State Road 17, P.O. Box 187, Culver, Indiana 46511, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substance methylphenidate (1724).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20357, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 27, 1991.

Dated: May 20, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-12501 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Johnson Matthey, Inc. Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on November 14, 1990, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2002 Nolte Drive, West Deptford, New Jersey 08066, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug	Schedule
Thebaine (9333).....	II.
Alfentanil (9737).....	II.
Sufentanil (9740).....	II.
Fentanyl (9801).....	II.

Any other applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed

to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR) and must be filed no later than June 27, 1991.

Dated: May 16, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-12502 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-09-M

Noramco of Delaware, Inc.; Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 12, 1991, and published in the *Federal Register* on April 24, 1991, (56 FR 18838), Noramco of Delaware, Inc., Div. McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050).....	II
Oxycodone (9143).....	II
Hydrocodone (9193).....	II
Morphine (9300).....	II
Thebaine (9333).....	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 16, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-12506 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing

a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 19, 1991, Stepan Chemical Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of coca leaves (9040) a basic class of controlled substances in Schedule II.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 27, 1991.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: May 16, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-12504 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Stepan Chemical Co. Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 19, 1991, Stepan Chemical Company, Natural Products, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II.
Benzoylcocaine (9180)	II.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 27, 1991.

Dated: May 16, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-12503 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-09-M

Upjohn Co.; Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 8, 1991, and published in the Federal Register on April 16, 1991, (56 FR 15384), Upjohn Company, 7171 Portage Road, Kalamazoo, Michigan 49001, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of 2,5-dimethoxyamphetamine (DMA) (7396), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant

Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: May 16, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-12505 Filed 5-24-91; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act and Targeted Jobs Tax Credit; Lower Living Standard Income Level

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of determination of lower living standard income level.

SUMMARY: The Job Training Partnership Act (JTPA) provides that the term "economically disadvantaged" may be defined as 70 percent of the "lower living standard income level" (LLSIL). To provide the most accurate data possible, the Department of Labor is issuing revised figures for the LLSIL. The Internal Revenue Code also provides that the term "economically disadvantaged" may be defined as 70 percent of the LLSIL for purposes of the Targeted Jobs Tax Credit (TJTC).

EFFECTIVE DATE: This notice is effective on May 28, 1991.

ADDRESSES: Send written comments to: Mr. Hugh Davies, Acting Director, Office of Employment and Training Programs, Employment and Training Administration, Department of Labor, room N-4703, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Hugh Davies, Telephone: 202-535-0580 (this is not a toll free number.)

SUPPLEMENTARY INFORMATION: It is a purpose of the Job Training Partnership Act (JTPA) "to afford job training to those economically disadvantaged individuals * * * who are in special need of such training to obtain productive employment." JTPA section 2; see 20 CFR 626.1(a)(2). JTPA section 4(8) defines, for the purposes of JTPA eligibility, the term "economically disadvantaged" in part by reference to the "lower living standard income level" (LLSIL). See 20 CFR 626.4.

The LLSIL figures published in this notice shall be used to determine whether an individual is economically disadvantaged for applicable JTPA purposes. JTPA section 4(16) defines the LLSIL as follows:

The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary [of Labor] based on the most recent "lower living family budget" issued by the Secretary.

Internal Revenue Code (I.R.C.) sections 44B and 51 established the Targeted Jobs Tax Credit (TJTC) for a portion of the wages paid by employers to employees from "targeted" groups. Certain of the targeted groups require that the worker be a member of "an economically disadvantaged family." See, e.g., 26 U.S.C. 51(d)(3)(A)(ii), (4)(C), (7)(B), (8)(A)(iv), and (12)(A)(iv). The LLSIL figures published in this notice shall be used to determine whether an individual is a member of an economically disadvantaged family for applicable TJTC purposes.

The most recent lower living family budget was issued by the Secretary in the fall of 1981. Using those data, the 1981 LLSIL was determined for programs under the now-repealed Comprehensive Employment and Training Act, and for the TJTC. The four-person urban family budget estimates previously published by the Bureau of Labor Statistics (BLS) provided the basis for the Secretary to determine the LLSIL for training and employment program operators. BLS terminated the four-person family budget series in 1982, after publication of the Fall 1981 estimates.

Under JTPA, the Employment and Training Administration (ETA) published the 1990 updates to the LLSIL in the *Federal Register* of April 13, 1990, 55 FR 14008. ETA has again updated the LLSIL to reflect costs of living increases for 1990 by applying the percentage change in the December 1990 Consumer Price Index for All Urban Consumers (CPI-U), compared with the December 1989 CPI-U, to each of the April 13, 1990 LLSIL figures. Those updated figures for a family of four are listed in Table 1 below by region for both metropolitan and nonmetropolitan areas. Since eligibility is determined by family income at 70 percent of the LLSIL, pursuant to section 4(8) of JTPA, those figures are listed below as well.

Jurisdictions included in the various regions, based generally on Census

Divisions of the U.S. Department of Commerce, are as follows:

Northeast

Connecticut	New York
Maine	Pennsylvania
Massachusetts	Rhode Island
New Hampshire	Vermont
New Jersey	Virgin Islands

North Central

Illinois	Missouri
Indiana	Nebraska
Iowa	North Dakota
Kansas	Ohio
Michigan	South Dakota
Minnesota	Wisconsin

South

Alabama	Kentucky
American Samoa	Louisiana
Arkansas	Marshall Islands
Delaware	Maryland
District of Columbia	Mississippi
Florida	Micronesia
Georgia	North Carolina
Northern Marianas	Tennessee
Oklahoma	Texas
Palau	Virginia
Puerto Rico	West Virginia
South Carolina	

West

Arizona	New Mexico
California	Oregon
Colorado	Utah
Idaho	Washington
Montana	Wyoming
Nevada	

Additionally, separate figures have been provided for Alaska, Hawaii, and Guam as indicated in Table 2 below.

For Alaska, Hawaii, and Guam, the 1990 figures were updated by creating a "State Index" based on the ratio of the urban change in the State (using Anchorage for Alaska and Honolulu for Hawaii and Guam) compared to the West regional metropolitan change, and then applying that index to the West regional nonmetropolitan change.

Data on 25 selected Metropolitan Statistical Areas (MSAs) are also available. These are based on monthly, bi-monthly or semiannual CPI-U changes for a 12-month period ending in December 1990. The updated LLSIL figures for these MSAs, and 70 percent of the LLSIL, rounded to the next highest ten, are set forth in Table 3 below.

Table 4 below is a listing of each of the various figures at 70 percent of the updated 1991 LLSIL for family sizes of one to six persons. For families larger than six persons, an amount equal to the difference between the six-person and the five-person family income levels should be added to the six-person family income level for each additional person in the family. Where the poverty level for a particular family size is greater than the corresponding LLSIL figure, the figure is indicated in parentheses.

Section 4(8) of JTPA defines "economically disadvantaged" as, among other things, an individual whose family income was not in excess of the higher of the poverty level or 70 percent of the LLSIL. The Department of Health and Human Services published the annual update of the poverty-level guidelines at 56 FR 6859 (February 20, 1991).

Use of These Data

Based on these data, Governors should provide the appropriate figures to service delivery areas (SDAs), State Employment Security Agencies, and employers in their States to use in determining eligibility for JTPA and TJTC. The Governor should designate the appropriate LLSILs for use within the State from Tables 1 through 3. Table 4 may be used with any of the levels designated.

Information may be provided by disseminating information on MSAs and metropolitan and nonmetropolitan areas within the State, or it may involve further calculations. For example, the State of New Jersey may have four or more figures: Metropolitan, nonmetropolitan, for portions of the State in the New York City MSA, and for those in Philadelphia MSA. If an SDA includes areas that would be covered by more than one figure, the Governor may determine which is to be used. Pursuant to the JTPA regulations at 20 CFR 627.1, guidelines, interpretations, and definitions adopted by the Governor shall be accepted by the Secretary to the extent that they are consistent with the JTPA and the JTPA regulations.

Disclaimer on Statistical Uses

It should be noted that the publication of these figures is only for the purpose of determining eligibility for applicable JTPA and TJTC programs. BLS has not revised the lower living family budget since 1981, and has no plans to do so. The four-person urban family budget estimates series has been terminated. The CPI-U adjustments used to update the LLSIL for this publication are not precisely comparable, most notably because certain tax items were included in the 1981 LLSIL but are not in the CPI-U.

Thus, these figures should not be used for any statistical purposes, and are valid only for eligibility determination purposes under the JTPA and TJTC programs.

Signed at Washington, DC, this 14th day of May, 1991.

Roberts T. Jones,
Assistant Secretary of Labor.

TABLE 1.—LOWER LIVING STANDARD
INCOME LEVEL BY REGION ¹

Region	1991 adjusted LLSIL	70 percent LLSIL
Northwest:		
Metro	23,360	16,360
Non-Metro	23,010	16,110
North Central:		
Metro	21,670	15,170
Non-Metro	20,400	14,280
South:		
Metro	20,600	14,420
Non-Metro	19,480	13,640
West:		
Metro	23,000	16,100
Non-Metro	22,800	15,960

¹ For ease of calculation, these figures have been rounded to the next highest ten dollars.

TABLE 2.—LOWER LIVING STANDARD
INCOME LEVEL—ALASKA, HAWAII AND
GUAM ¹

Region	1991 adjusted LLSIL	70 percent LLSIL
Alaska:		
Metro	29,310	20,520
Non-Metro	29,060	20,350
Hawaii-Guam:		
Metro	30,690	21,490
Non-Metro	30,440	21,310

¹ Rounded to the next highest ten dollars.

TABLE 3.—LOWER LIVING STANDARD
LEVEL—25MSAs ¹

Region MSA	1991 adjusted LLSIL	70 percent LLSIL
Anchorage, AK	29,310	20,520
Atlanta, GA	20,660	14,470
Baltimore, MD	21,940	15,360
Boston-Lawrence- Salem, MA/NH	24,950	17,470
Buffalo-Niagara Falls, NY	20,680	14,480
Chicago-Gary-Lake County, IL/IN/WI	22,530	15,780
Cincinnati-Hamilton, OH/KY/IN	21,880	15,320
Cleveland-Akron- Lorain, OH	22,540	15,780

TABLE 3.—LOWER LIVING STANDARD
LEVEL—25MSAs ¹—Continued

Region MSA	1991 adjusted LLSIL	70 percent LLSIL
Dallas-Ft Worth, TX	19,690	13,790
Denver-Boulder, CO	20,920	14,650
Detroit-Ann Arbor, MI	20,950	14,670
Honolulu, HI	30,690	21,490
Houston-Galveston- Brazoria, TX	19,390	13,580
Kansas City, MO/KS	20,820	14,580
Los Angeles-Anaheim- Riverside, CA	24,180	16,930
Milwaukee, WI	21,450	15,020
Minneapolis-St Paul, MN/WI	21,040	14,730
New York-Northern N.J.-Long Island, NY/NJ/CT	24,130	16,900
Philadelphia- Wilmington-Trenton, PA/NJ/DE/MD	22,760	15,940
Pittsburgh-Beaver Valley, PA	21,460	15,030
St Louis-East St Louis, MO/IL	21,320	14,930
San Diego, CA	24,420	17,100
San Francisco- Oakland-San Jose, CA	23,830	16,690
Seattle-Tacoma, WA	23,740	16,620
Washington, DC/MD/ VA	25,180	17,630

¹ Rounded to the next highest ten dollars.

TABLE 4.—SEVENTY PERCENT OF UPDATED 1991 LLSIL, BY FAMILY SIZE ¹

Family of one	Family of two	Family of three	Family of four	Family of five	Family of six
(4,890)	(8,020)	(11,000)	13,580	16,030	18,740
(4,910)	(8,050)	(11,050)	13,640	16,100	18,830
(4,970)	(8,140)	11,170	13,790	16,280	19,030
(5,150)	(8,430)	11,570	14,290	16,850	19,710
(5,200)	(8,510)	11,680	14,420	17,020	19,900
(5,210)	(8,540)	11,720	14,470	17,080	19,970
(5,220)	(8,550)	11,730	14,480	17,090	19,990
(5,250)	(8,610)	11,810	14,580	17,210	20,120
(5,280)	(8,650)	11,870	14,650	17,290	20,220
(5,290)	(8,660)	11,890	14,670	17,320	20,250
(5,310)	(8,700)	11,940	14,730	17,390	20,330
(5,380)	(8,810)	12,100	14,930	17,620	20,610
(5,410)	(8,870)	12,170	15,020	17,730	20,730
(5,420)	(8,870)	12,180	15,030	17,740	20,750
(5,470)	8,950	12,290	15,170	17,910	20,940
(5,520)	9,040	12,410	15,320	18,080	21,150
(5,530)	9,070	12,450	15,360	18,130	21,200
(5,690)	9,310	12,790	15,780	18,620	21,760
(5,740)	9,410	12,920	15,940	18,810	22,000
(5,750)	9,420	12,930	15,960	18,840	22,030
(5,800)	9,500	13,050	16,100	19,000	22,220
(5,800)	9,510	13,050	16,110	19,010	22,220
(5,890)	9,660	13,260	16,360	19,310	22,580
(5,990)	9,810	13,470	16,620	19,620	22,940
(6,010)	9,850	13,520	16,690	19,700	23,040
(6,090)	9,980	13,690	16,900	19,950	23,330
(6,100)	9,990	13,720	16,930	19,980	23,370
(6,160)	10,090	13,860	17,100	20,180	23,600
(6,290)	10,310	14,160	17,470	20,620	24,110
(6,350)	10,410	14,280	17,630	20,810	24,330
7,330	12,010	16,490	20,350	24,020	28,090
7,390	12,110	16,630	20,520	24,220	28,320
7,680	12,580	17,270	21,310	25,150	29,410
7,740	12,680	17,410	21,490	25,360	29,660

¹ Figures provided in Tables 1-3 of this notice are for a family size of four persons. To use Table 4, the appropriate figure should be found in the Family of Four column. Then one may read across the row for family sizes other than four in the appropriate columns. For ease of calculation, these figures are rounded to the next highest ten dollars.

[FR Doc. 91-12464 Filed 5-24-91; 8:45 am]

BILLING CODE 4510-30-M

LIBRARY OF CONGRESS

National Film Preservation Board Meeting; June 13, 1991, Washington, DC

AGENCY: National Film Preservation Board, Library of Congress.

ACTION: Notice of meeting.

This notice is issued pursuant to Public Law 100-446, The National Film Preservation Act of 1988, 2 U.S.C. 178, by Dr. James H. Billington, the Librarian of Congress, to inform the public that the next meeting of the National Film Preservation Board will be held in Washington, DC in the office of the Librarian of Congress on June 13, 1991 at 9 a.m. At the request of the National Film Preservation Board, this meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Counsel, The National Film Preservation Board, Library of Congress, Washington, DC 20540. Telephone: (202) 707-8350.

Dated: May 21, 1991.

James H. Billington,
The Librarian of Congress.

[FR Doc. 91-12546 Filed 5-24-91; 8:45 am]

BILLING CODE 1410-18-M

NATIONAL SCIENCE FOUNDATION**Division of Earth Sciences; Special Emphasis Panel, Meetings**

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Earth Sciences.

Date: June 10-11, 1991.

Time: 8 a.m. to 5 p.m.

Place: U.S. Geological Survey, room BA-102B, Reston, VA.

Type of Meeting: Closed.

Agenda: Review and evaluate proposals for the Creede Drilling Program.

Contact: Dr. Leonard E. Johnson, Program Director, Continental Dynamics Program, National Science Foundation.

Dated: May 21, 1991.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 91-12438 Filed 5-24-91; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Education and Human Resources; Committee of Visitors; Meetings

The National Science Foundation announces the following five Committee of Visitor meetings:

Name: Committee of Visitors Review of the Young Scholars Program

Date & Time: June 12, 1991; 8:30 to 5.

Place: Room 523, 1800 G Street, NW., Washington, DC

Contact Person: Dr. Virginia Eaton, Program Director, Division of Research Career Development, room 630, National Science Foundation, Washington, DC 20550. Telephone 202-357-7538.

Committee of Visitors will review the following programs within the Division of Undergraduate Science, Engineering and Mathematics Education. All meetings will be held in Room 639 at the National Science Foundation from 8:30 to 5 and are closed. Contact persons can be reached at 202-357-9644.

June 12, 1991

Undergraduate Curriculum & Course Development in Engineering, Mathematics & the Sciences (UCCP) Program

Contact Person: Dr. Jack Lohmann, Program Director

June 19

Undergraduate Faculty Enhancement (FE) Program

Contact Person: Dr. William Haver, Program Director

July 12

Undergraduate Curriculum Development in Mathematics: Calculus Program

Contact Person: Dr. John Bradley, Program Director

July 15

Instrumentation and Laboratory of Visitors Improvement (ILI) Program

Contact Person: Dr. Duncan McBride, Program Director

Agenda: To carry out Committee of Visitors (COV) review including examination of decisions on proposal, reviewer comments, and other privileged materials.

Reason for Closing: The meetings are closed to the public because the Committee of Visitors will be reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these

matters that are exempt under 5 U.S.C. 552b (c) (4) and (6) of the Government in the Sunshine Act would improperly be disclosed.

Dated: May 21, 1991.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 91-12439 Filed 5-24-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-445]

Texas Utilities Electric Company, et al.; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the scheduler requirements of 10 CFR 50.71(e)(3)(i) to Texas Utilities Electric Company, et al. (the licensee) for the Comanche Peak Steam Electric Station, Unit No. 1, located in Somervell County, Texas.

Environmental Assessment**Identification of Proposed Action**

The proposed action would grant an exemption from the requirement of 10 CFR 50.71(e)(3)(i) to submit an updated Final Safety Analysis Report (UFSAR) for Unit 1 of the Comanche Peak Steam Electric Station within 24 months of the issuance of the operating license. The operating license was issued for Comanche Peak Steam Electric Station, Unit No. 1, on April 17, 1990. By letter dated April 1, 1991, the licensee requested an exemption from 10 CFR 50.71(e)(3)(i) which would defer submittal of the UFSAR for Comanche Peak Steam Electric Station, Unit 1, until two years following receipt of a low-power operating license for Comanche Peak Steam Electric Station, Unit 2, on the basis that the present FSAR applies to both units. The FSAR has been amended and will continue to be amended until Comanche Peak Steam Electric Station, Unit 2, is licensed.

The Need for the Proposed Action

Section 50.34 of title 10 of the Code of Federal Regulations requires that, until Comanche Peak Steam Electric Station, Unit 2, receives an operating license, the information contained in the FSAR docketed with the operating license application be maintained current. Hence, if an extension to the submittal date for the UFSAR is not granted, the licensee would be required to maintain current both the present FSAR as well as the UFSAR until Comanche Peak

Steam Electric Station, Unit 2, is licensed. Maintaining two versions of the same document for the two Comanche Peak units would cause a hardship and would serve no useful purpose if the existing FSAR is maintained up-to-date until Unit 2 is licensed.

Therefore, an extension is needed to eliminate the hardship of maintaining two versions of the same document. Until Unit 2 receives an operating license, the licensee has committed to maintain the present FSAR current for both units by periodically amending the document.

Environmental Impact of the Proposed Action

The proposed exemption affects only the required date for submitting the UFSAR and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not differ from those determined previously, and the proposed exemption does not otherwise affect facility radiological effluents, or any significant occupational exposures. With regard to potential non-radiological impacts, the proposed exemption does not affect plant non-radiological effluents and has no other environmental impact. Therefore, the Commission concludes that there are no measurable radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives either will have no environmental impact or will have a greater environmental impact. The principal alternative to the exemption would be to require an earlier date for submittal of the UFSAR. Such an action would not enhance the protection of the environment and would result in unnecessary hardship of maintaining two versions of the same document.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Comanche Peak Steam Electric Station, Units 1 and 2, dated September 1981 and Supplement dated October 1989.

Agencies and Persons Contacted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letter dated April 1, 1991. The letter is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19297, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 20th day of May 1991.

For the Nuclear Regulatory Commission,
George F. Dick,
Acting Director, Project Director IV-2,
Division of Reactor Projects—III/IV/V,
Office of Nuclear Reactor Regulation.
[FR Doc. 91-12527 Filed 5-24-91; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-424 and 50-425]

Georgia Power Co., et al.; Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. NPF-68 and NPF-81 issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia (the licensee) for operation of the Vogtle Electric Generating Plant, Units 1 and 2, located in Burke County, Georgia.

The proposed amendments would change the Technical Specifications (TSs) to reflect a planned modification to the method of measuring reactor coolant system (RCS) delta temperature (DT). The current method uses resistance temperature detectors (RTDs) located in a bypass manifold to provide signals for the Overtemperature DT and Overpower DT reactor trip instrumentation. The modification would eliminate the bypass manifold and locate fast-response RTDs in thermowells directly in the hot and cold legs of the RCS loops to provide these signals.

Specifically, the definition of DT in Notes 1 (Overtemperature DT) and 3

(Overpower DT) of TS Table 2.2-1 would be revised to delete the phrase "by RTD Manifold Instrumentation." Additionally, footnote 12 of TS Table 4.3-1, which states that channel calibration of Overtemperature DT instrumentation shall include the RTD bypass loops flow rate, would be deleted. Because Vogtle Units 1 and 2 share a common TS document and the planned modifications are to occur at different times, the TS changes would be expressed both before and after the modification and annotated as needed for each Vogtle unit based upon modification status.

Other changes in the licensee's amendment requests have been previously noticed and are outside the scope of this notice.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendments involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

RTD bypass elimination does not significantly increase the probability of an accident previously evaluated. The integrity of the reactor coolant pressure boundary is maintained by design and installation procedures adhering to appropriate codes and standards. In addition, an instrumentation and control evaluation has concluded that the fast response RTD system remains in compliance with industry standards and criteria for single failure, independence, separation, and qualification considerations. No new accident initiators are created by this modification. Therefore, the modification has no effect on the probability of previously analyzed accidents involving the integrity of the reactor coolant pressure boundary or performance of the control and protection system.

The consequences of an accident previously evaluated are not significantly increased due to RTD bypass manifold elimination. Although the pressure boundary will be modified, proper welding techniques and tests will ensure the integrity of the

pressure boundary and thus it will not contribute to any additional radiological consequences. Protection and mitigation systems will continue to operate as assumed in the safety analyses and will not result in any additional challenges to fuel integrity or changes in mass/energy releases.

RTD bypass does not create the possibility of a new accident or one different from any previously evaluated. The modification creates no new accident initiators and no new single failures have been identified. The installation operations minimize the potential for debris escaping into the RCS, and the small amount of debris introduced has been determined to be inconsequential. Additionally, the reliability and performance of the protection system remains consistent with that assumed in the safety analyses. Therefore, no new accidents have been created.

The margin of safety is not significantly reduced as a result of this modification. The resultant effects on the Overtemperature Delta-T and Overpower Delta-T reactor trip setpoints defined in TS Table 2.2-1 have been included in the safety analyses presented in reference 2 [reference 2 is the VANTAGE-5 Reload Transition Safety Report for Vogtle Electric Generating Plant forwarded by the licensee's letter of November 29, 1990]. The reason for footnote 12 in TS Table 4.3-1 has been eliminated and therefore the footnote is no longer appropriate. It has been confirmed that the changes identified for the VANTAGE-5 fuel program (reference 2) remain bounding for elimination of the bypass system and replacing it with the fast-response RTDs. Additionally, the integrity of the reactor coolant pressure boundary and protection system is maintained. Therefore, this change does not result in a significant reduction in a margin of safety.

The Commission's staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the Commission's staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland,

from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 27, 1991, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in

the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendments involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If a final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period.

However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to David B. Matthews: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated November 29, 1990; as supplemented January 29 and March 6, 1991; and as revised March 29, 1991, which is available for public inspection

at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 21st day of May 1991.

For the Nuclear Regulatory Commission.
Robert E. Martin,
Acting Project Director, Project Directorate II-3, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-12528 Filed 5-24-91; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) *Collection title:* Lag Service Reports.

(2) *Form(s) submitted:* AA-12, G-88A.

(3) *OMB Number:* 3220-0005.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Businesses or other for-profit.

(8) *Estimated annual number of respondents:* 740.

(9) *Total annual responses:* 3,900.

(10) *Average time per response:* .1056.

(11) *Total annual reporting hours:* 412.

(12) *Collection description:* The reports obtain the current service and compensation of an employee not yet reported to the Railroad Retirement Board. This lag information is used to determine eligibility for and amount of annuity applied for and to pay benefits due on a deceased employee's earnings records.

Additional Information or Comments: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,
Clearance Officer.

[FR Doc. 91-12554 Filed 5-24-91; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-6893; 34-29208; 35-253 C; 39-2265; IC-18159; IA-1278; PA-15]

Privacy Act of 1974; Modification of Systems of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notification of minor changes to descriptions of existing Privacy Act systems of records for the Securities and Exchange Commission.

SUMMARY: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Securities and Exchange Commission is altering the notices of ten existing systems of records to reflect address changes, citations and agency names, and to more accurately describe system names, safeguards employed and retention and disposal practices.

EFFECTIVE DATE: May 28, 1991.

FOR FURTHER INFORMATION CONTACT: Carol K. Scott, Assistant General Counsel (202-272-2474), or Fran L. Paver, Attorney (202-272-2453), Office of the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In accordance with guidelines issued by the Office of Management and Budget pursuant to the Privacy Act of 1974, the Securities and Exchange Commission recently conducted an extensive review of its published systems of records notices. During this review, the Commission identified ten notices that require minor alterations. These alterations will not affect an individual's ability to gain access to his or her records maintained by the Commission. For the most part, the changes involve updating Commission addresses. Other changes include a revised description of safeguards, revised system names, a revised system manager, corrected citations to the Code of Federal Regulation and to the Commission's

Rules of Conduct Regulations, a revised retention and disposal period, a deletion of references to the Civil Service Commission and insertion of the Office of Personnel Management in its stead, and a replacement of a reference to super grade with SES.

The following systems of records notices are amended as follows:

SEC-22

SEC-22 is amended as follows:

1. *System name*: The system name is revised to read: Division of Corporation Finance Branch and Support Office Working Files—SEC.

2. *Routine uses of records maintained in the system, including categories of users and the purposes of such uses*: In numbered paragraph 10, the citation in the seventh paragraph to the Commission's Rules of Conduct is revised to read: 17 CFR 202.735-1 et seq.

3. *System manager(s) and address; Notification procedure; and Record access procedures*: The addresses in each of these sections are revised to read: 450 Fifth Street, NW., Washington, DC 20549.

SEC-31

SEC-31 is amended as follows:

1. *Retention and disposal*: This section is revised to read: Records are kept for three years.

2. *System manager(s) and address; Notification procedure; and Record access procedures*: The addresses in each of these sections are revised to read: 450 Fifth Street, NW., Washington, DC 20549.

SEC-43

SEC-43 is amended as follows:

1. *Routine uses of records maintained in the system, including categories of uses and the purposes of such uses*: In numbered paragraph 7, the citation to the Commission's Rules of Practice in the third paragraph is revised to read 17 CFR 201.1 et seq.; in the sixth paragraph, the citation to the Commission's Rules of Conduct is revised to read 17 CFR 200.735-1 et seq.

2. *System manager(s) and address; Notification procedure; and Record access procedures*: The addresses in each of these sections are revised to read: 450 Fifth Street, NW., Washington, DC 20549.

SEC-46

SEC-46 is amended as follows:

1. *System name*: The system name is revised to read: Office of General Counsel (Adjudication) Working Files—SEC.

2. *System location*: This section is revised to remove the phrase "500 North

Capitol Street, NW.," and to include the zip code 20549.

3. *Categories of records in the system*: The reference to the Office of Opinions and Review is removed and replaced by Office of General Counsel.

4. *System manager(s) and address*: This section is revised to read: Associate General Counsel (Adjudication), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

5. *Notification procedure and Record access procedures*: The address in both of these sections are revised to read: 450 Fifth Street, NW., Washington, DC 20549.

SEC-47

SEC-47 is amended as follows:

1. *Categories of records in the system*: Paragraph (b) is revised to read: Code of Conduct files—established under SEC employee conduct regulations (17 CFR 200.735-1 et seq.); Rule 4—Outside employment material; Rule 5—Employee securities transactions; Rule 6—Actions in cases of personal interests; Rule 7—Negotiations for private employment; Rule 8—Practice by former members and employees of the SEC; Rule 9—Employee debts; Rule 11—Statements of employments of and financial interests (GS-16's and above); Rule 12—Statement of employment and financial interest (Special Employees).

2. *Record access procedures*: The address in this section is revised to read: 450 Fifth Street, NW., Washington, DC 20549.

SEC-48

SEC-48 is amended as follows:

1. *System location*: This section is amended to remove the phrase "500 North Capitol Street."

2. *System manager(s) and address; Notification procedures; and Record access procedures*: The addresses in each of these sections are revised to read: 450 Fifth Street, NW., Washington, DC 20549.

SEC-51

SEC-51 is amended to read:

1. *System manager(s) and address; Notification procedures; and Record access procedures*: The addresses in each of these sections are revised to read: 450 Fifth Street, NW., Washington, DC 20549.

SEC-78

SEC-78 is amended to read:

1. *System location*: This section is revised to read: Fort Worth Regional Office, 411 West Seventh Street, 8th Floor, Fort Worth, Texas 76102; Houston

Branch Office, 7500 San Felipe Street, Suite 550, Houston, Texas 77063.

2. *Safeguards*: The Third sentence is revised and a fourth sentence is added to read: Records are safeguarded by a 24-hour mechanically coded, limited access entry security system on all doors to the offices occupied, except for the front door which is watched by a receptionist during business hours and locked at all other times. In addition, the building provides private 24-hour security.

3. *System manager(s) and address*: a. The address in the first sentence is revised to read: 411 West Seventh Street, 8th Floor, Fort Worth, Texas 76102.

b. The address in the second sentence is revised to read: 7500 San Felipe Street, Suite 550, Houston, Texas 77063.

4. *Notification procedure and Record access procedures*: The addresses of the SEC Public Reference Room and the Privacy Act Officer are revised to read: 450 Fifth Street, NW., Washington, DC 20549.

SEC-98

SEC-98 is amended to read:

1. *System name*: The system name is revised to read: Philadelphia Regional Office, Administrative Proceeding Files—SEC.

2. *System location*: The system location is revised to read: The Curtis Center, Suite 1005 E, 601 Walnut Street, Philadelphia, PA 19106-3322.

3. *System manager(s) and address*: This section is revised to read: Regional Administrator, Securities and Exchange Commission, The Curtis Center, Suite 1005 E, 601 Walnut Street, Philadelphia, PA 19106-3322.

4. *Notification procedure and Record access procedures*: The addresses of the SEC Public Reference Room and the Privacy Act Officer are revised to read: 450 Fifth Street, NW., Washington, DC 20549.

SEC-100

SEC-100 is revised to read:

1. *System location*: This section is amended to remove the phrase "500 North Capitol Street."

2. *Categories of records in the system*: a. All references to the Civil Service Commission in this section are removed and the Office of Personnel Management is added.

b. In paragraph (h), the reference to super grade is removed and SES is added.

3. *System manager(s) and address; Notification procedure; and Record access procedures*: The addresses in each of these sections are revised to

read: 450 Fifth Street, NW., Washington, DC 20549.

Dated: May 20, 1991.

By the Commission.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-12447 Filed 5-28-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29205; File No. SR-NYSE-91-16]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to an Enhancement to the Exchange's Overnight Comparison System to Automate Adjustments to Odd-Lot Transactions

May 17, 1991.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 8, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization ("SRO"). The Commission is publishing this notice and order to solicit comments from interested parties and to approve the proposed rule change.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change sets forth in detail an enhancement to the NYSE's Overnight Comparison System ("OCS") that will automate the process of making adjustments to odd-lot transactions.² Currently, the NYSE operates a manual odd-lot adjustment facility that receives adjustment requests from its member firms by telephone. This facility, which is operated by Exchange employees, conveys odd-lot adjustment requests from member firms to the specialists and returns the specialists' answers to the member firms. The NYSE intends to eliminate the existing facility that manually adjusts odd-lot trades. Instead, the odd-lot adjustment function will be incorporated into the Exchange's automated Correction System,³ which is

a component of OCS. Odd-lot adjustments then will be displayed on-line through the OCS terminal network. Accordingly, the member firms will be able to enter, or have their clearing firms enter, an odd-lot transaction into OCS for correction.

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the SRO included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below and is set forth in sections (A), (B), and (C) below.

(A) SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The NYSE member firms that execute odd-lot orders sometimes find it necessary to request that the registered specialists⁴ in a stock cancel a trade or make some type of adjustment to a trade. The types of adjustments involved include, but are not limited to, changes in: (1) The number of shares, (2) the price, or (3) whether the execution was a purchase or a sale.

Currently, the NYSE operates a manual odd-lot adjustment facility that receives adjustment requests from its member firms by telephone. This facility, which is operated by Exchange employees, conveys odd-lot adjustment requests from member firms to the specialists and returns the specialists' answers to the member firms. When a request is received, an Exchange employee verifies that the transaction in question took place and contacts the specialist on the NYSE trading floor. If the specialist agrees to make the adjustment, an Exchange employee notifies the firm that made the request and manually enters the adjustment into the odd-lot system. These Exchange employees, however, do not participate in the negotiations between the member firm seeking the adjustment and the specialist considering the request. If the specialist declines to make the adjustment, an Exchange employee will notify the firm of the specialist's decision. The firm then must contact the specialist directly or take another type of remedial action.

The NYSE intends to eliminate the existing facility that manually adjusts

odd-lot trades.⁵ Instead, the odd-lot adjustment function will be incorporated into the Exchange's automated Correction System,⁶ which is a component of OCS. Odd-lot adjustments then will be displayed on-line through the OCS terminal network. Accordingly, the member firms will be able to enter, or have their clearing firms enter, an odd-lot transaction into OCS for correction.

Technically, under this proposal, a member firm may communicate an odd-lot problem directly to the specialist via an OCS terminal and may enter the details of a problem and a proposed adjustment into the appropriate fields. In response, the specialist either will accept ("OK") or will reject ("DK") the proposed adjustment. At the end of the trading day, OCS will transmit all of the accepted adjustments to the appropriate Qualified Clearing Agency for clearance and settlement. With regard to fees, the Exchange will apply the existing schedule for adjustments within its Correction System.

The NYSE states that to service odd-lot trades, it has built certain safeguards into OCS that will preserve the integrity of its odd-lot execution system. Under the proposal, odd-lot adjustments may be entered into OCS only with the specialist's clearing firm identified as the contra-side and with the specialist's badge number or the equivalent Exchange identifier in both the executing and contra-badge fields. Clearing firms may not enter adjustments with any of the Exchange's omnibus accounts (e.g., DOT, LMT, OARS, or YB) as the contra-side. Specialists will not be permitted to "pair-off" buy and sell adjustments (i.e., one side of each adjustment must be for the specialist's own account).

The NYSE represents that this enhancement to OCS will not diminish OCS's capability to accommodate ordinary message traffic as well as peak traffic. Additionally, the Exchange represents that the changes that have been made to the system's security measures are satisfactory to prevent internal as well as external violations.

The Exchange will implement its automated odd-lot adjustment service on a gradual basis. Beginning on May 17, 1991, clearing firms will enter odd-lot adjustments with stock symbols beginning with the letters "A", "B", and

¹ 15 U.S.C. 78s(b).

² For a discussion of OCS, see Securities Exchange Act Release No. 26627 (March 14, 1989), 54 FR 11470 [SEC File No. SR-NYSE-88-36].

³ For a discussion of the NYSE's Correction System, see Securities Exchange Act Release No. 26773 (May 1, 1989), 54 FR 20227 [SEC File No. SR-NYSE-89-03].

⁴ The NYSE states in its filing that Exchange members who register as specialists in listed stocks also register as odd-lot dealers in such stocks.

⁵ Adjustments to odd-lot trades can total 500 per day.

⁶ For a discussion of the NYSE's Correction System, see Securities Exchange Act Release No. 26773 (May 1, 1989), 54 FR 20227 [Sec File No. SR-NYSE-89-03].

"C" into the OCS. The remainder of the listed stocks will be phased into the service over a period of about six weeks (i.e., through approximately June 28, 1991) with the exact speed of implementation to depend on the Exchange's evaluation of the service's operation with stocks beginning with the first three letters of the alphabet.

(2) Statutory Basis

The Exchange believes that changing the manner in which adjustments are made to odd-lot transactions from a manual to an automated process will help to foster coordination with persons engaged in clearing and settling transactions in securities as called for in section 6(b)(5) of the Act.⁷ This proposed enhancement to OCS also furthers the objectives of section 17A(a)(1) of the Act⁸ in that it will help eliminate inefficient procedures for clearance and settlement that impose unnecessary costs on investors and persons facilitating transactions by and on behalf of investors.

(B) SRO's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) SRO's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The NYSE has not solicited comments on the proposed rule change, and no unsolicited comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NYSE believes that its initiative to process odd-lot adjustments more efficiently on behalf of its member firms by replacing an essentially manual operation with a computerized operation is consistent with the Act and in the best interests of its member firms and public investors. The Exchange emphasizes, however, that it already has begun to phase out its existing manual odd-lot operation and estimates that it will need approximately six weeks to implement the new automated service. Therefore, the Exchange requests that the Commission accelerate the effectiveness of this proposed rule change in order to avoid any gap in its ability to process odd-lot trades.

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78q-1(a)(1).

The Commission finds good cause under section 19(b)(2) of the Act⁹ for approving this proposed rule change prior to the thirtieth day after the publication of notice of filing thereof, in that the proposal is consistent with the Act particularly sections 6(b)(5) and 17A of the Act.¹⁰ Furthermore, the Commission believes the proposal consists of changes that are limited in scope to electronic enhancements to systems previously approved by the Commission¹¹ and will lead to improved NYSE trading practices in the processing of odd-lot trades.

IV. Solicitation of Comments

Interested persons are invited to submit data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of NYSE. All submissions should refer to File No. SR-NYSE-91-16 and should be submitted by June 18, 1991.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹² that the proposed rule change (File No. SR-NYSE-91-16) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-12448 Filed 5-24-91; 8:45 am]

BILLING CODE 8010-01-M

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ See supra notes 7 and 8 and accompanying text.

¹¹ See supra notes 2 and 3 and accompanying text.

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).

[Release No. 34-29207; File Nos. SR-OCC-87-11 and SR-OCC-87-21]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Withdrawal of Proposed Rule Changes Relating to an OCC Trust Company and to Margin Requirements for Deep-Out-of-the-Money Options Positions

May 17, 1991.

On May 13, 1987, and November 25, 1987, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ proposed rule changes relating to an OCC trust company (File No. SR-OCC-87-11) and to margin requirements for deep-out-of-the-money options positions (File No. SR-OCC-87-21), respectively.

Notice of the proposed rule changes were published in the *Federal Register* on June 19, 1987,² and December 14, 1987.³ On May 10, 1991, OCC withdrew both proposals.⁴

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-12448 Filed 5-24-91; 8:45 a.m.]

BILLING CODE 8010-01-M

[Release No. 34-29206; File No. SR-SCCP-91-01]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Establishment of a Liability Notice Procedure for Book-Entry Deliverable Instruments With an Exercise Privilege

May 17, 1991.

On March 14, 1991, the Stock Clearing Corporation of Philadelphia ("SCCP") filed a proposed rule change (File No. SR-SCCP-91-01) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ SCCP filed the proposed rule

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 24591 (June 15, 1987), 52 FR 23387 (File No. SR-OCC-87-11).

³ Securities Exchange Act Release No. 25174 (December 4, 1987), 52 FR 47474 (File No. SR-OCC-87-21).

⁴ Letters from Don L. Horwitz, Senior Vice President and General Counsel, OCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation, Commission (May 8, 1991).

⁵ 15 U.S.C. 78s(b)(1).

change to establish a liability notice procedure for book-entry deliverable instruments with an exercise privilege. Notice of the proposed rule change appeared in the *Federal Register* on April 25, 1991.² No comments were received regarding the proposed rule change. This order approves the proposed rule change.

I. Description of the Proposal

The proposed rule change establishes a new SCCP Rule 40 relating to a liability notice procedure for book-entry deliverable instruments with an exercise privilege, such as the Nikkei 225 Stock Average Index warrants trading on designated National Securities Exchanges.³ Unlike other securities for which SCCP has liability notice procedures (e.g., securities subject to a tender or exchange offer at a time certain)⁴ these instruments are unique because while they have a stated expiration they have the potential to be exercised at any time.

The exercise provisions for most index warrants require delivery of the warrants to the warrant agent on the day of exercise. Currently, a Participant who fails to receive the warrant and is thereby unable to exercise such warrant cannot hold anyone liable for the value of the exercise because SCCP's existing Liability Notice procedures are limited to the time period preceding the actual expiration of the warrant. SCCP, at the request of the Reorganization Division of the Securities Industry Association ("SIA"), has developed a procedure that would remedy this deficiency for book-entry deliverable issues.

Under the proposed rule change, Participants who have sold but not delivered book-entry deliverable index warrants and similar instruments would be advised of their potential liability based on their short positions on the CNS Projection Report starting on T+4. This report would put them on notice that they may be held liable for damages by a Participant with a long position who is prevented from exercising because of failure to receive the securities. Participants with long positions or long settling trade positions who want to exercise must file a Notice of Intention to Exercise ("Notice") with

SCCP specifying the number of securities they want to exercise ("Exercise Position").⁵ The day the notice is filed is referred to as "N".⁶ If the Exercise Position remains unfilled after allocation on N, SCCP will remove the long position from the CNS system before the allocation on N+1, and will remove a corresponding short position(s) based on a random allocation method. On the morning of N+1, SCCP will issue fail to receive and fail to deliver instructions naming a failing to receive Participant and a failing to deliver Participant. This ticket will allow a failing to receive Participant to claim damages from the failing to deliver Participant. Those damages would be for losses that result from the receiving member's inability to exercise the security on N.⁷ If exercises of the security are suspended according to the terms of the prospectus, the failing to deliver Participant's liability for damages to the failing to receive Participant would continue but the amount of damages would be established once the suspension was lifted, or the liability could be satisfied by the delivery of the warrants before exercises resume.

II. Discussion

The Commission believes that SCCP's proposed rule change is consistent with section 17A of the Act and, specifically, with sections 17A(b)(3)(A) and (F).⁸ Sections 17A(b)(3)(A) and (F) of the Act require a clearing agency be organized and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

The proposed rule change will enable members who are unable to exercise a long index warrant position because of another member's failure to deliver

securities, to hold the other member liable for the value of the exercise. Unlike other securities for which SCCP has liability notice procedures (e.g., convertible securities or securities subject to a tender or exchange offer at a time certain), American style index warrants are unique because, while they have a stated expiration, they can be exercised at any time until their expiration and the exercising holder can obtain value before the expiration date.⁹ Under SCCP's current rules, a member with a long index warrant position who fails to receive the warrant and is unable to exercise that warrant cannot hold anyone liable for the value of the exercise because SCCP's existing liability notice procedures depend on expiration of, not the exercise of, a warrant. Thus, the proposal would adapt SCCP's rules to new securities for which SCCP provides clearance and settlement functions.

The Commission believes the proposed rule change is well designed to protect the interests of both parties to a trade in these securities. A member with a long position in a security with an exercise privilege will be protected against the risk that a customer will exercise the warrant on settlement date before the member has received the warrant from SCCP (or another SCCP member) to enable that exercise. Similarly, members with short positions in these securities should benefit from the proposal because SCCP will remind them, through reports on T+4, that they face potential liability for exercises if they fail to deliver securities on T+5.

SCCP has requested that the proposed rule change be approved on an accelerated basis because a number of index warrants are already approved for trading on the American Stock Exchange, the Chicago Board Options Exchange, the New York Stock Exchange, and the Pacific Stock Exchange. Without a mechanism to provide for damages when a receiving member is unable to exercise a warrant because of the delivering member's failure to deliver the securities the receiving member and its customers could sustain a loss. This proposal is similar to that of the National Securities Clearing Corporation ("NSCC") and the Midwest Clearing Corporation ("MCC"), which the Commission approved on February 1, 1991, and February 5, 1991,

² See, Securities Exchange Act Release No. 29092 (April 17, 1991), 56 FR 19136.

³ The index warrants currently trading are eligible to clear at SCCP and also are eligible for book-entry settlement at qualified securities depositories.

⁴ SCCP's Liability Notice procedures attach liability to a failing to deliver Participant where, because of an expiring event, the failing to receive Participant is prevented from receiving the benefit of that event.

⁵ Settling trades are the CNS contracts compared and accounted for by the Corporation for which such day is the settlement date.

⁶ SCCP will establish time frames for submission of Notices after consultation with tender agents and will notify Participants of the time frame via an Administrative Bulletin.

⁷ If a member files a notice with SCCP on exercise date, T+5 or thereafter, the failing to deliver member will be liable for the cash amount the member would have received if the member was able to exercise the warrant on the exercise date, which is the difference between the strike price of the index warrant, established at the time the warrant was purchased, and the cash value of the index on the exercise date as established in the prospectus. Because of the time differences, the cash value on exercise date of some foreign index warrants, e.g., Nikkei 225 Index Warrants, is established based on the close of the stock market in that particular country on the day following the exercise date.

⁸ 15 U.S.C. 78q-1(b)(3)(A) and (F).

⁹ The exercise provisions for most index warrants also require delivery of the warrants to the warrant agent on the day of exercise. In many exchange or tender offers for which SCCP's liability notice rules were originally designed, it is possible to accept the offer and deliver the securities to the tender agent after the offer expires.

respectively.¹⁰ Neither of those proposals generated comments or objections. Thus, the Commission believes "good cause" exists under section 19(b)(2) of the Act for approving the proposal prior to the thirtieth day after publication of notice.

III. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, particularly with section 17A of the Act, and the rules and regulations thereunder. Further, the Commission finds that "good cause" exists under section 19(b)(2) of the Act for approving the proposal prior to the thirtieth day after publication of notice.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change (File No. SR-SCCP-91-01) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-12450 Filed 5-24-91; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application to Withdraw from Listing and Registration; Brown-Forman Corporation, Class A Common Stock, \$.15 Par Value; Class B Common Stock, \$.15 Par Value; Preferred Stock, \$10.00 Par Value (File No. 1-123)

May 21, 1991.

Brown-Forman Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder to withdraw the above specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing these securities from listing and registration including the following:

In making the decision to withdraw its common stock and preferred from listing on the Amex, the Company considered the direct and indirect costs of expenses attendant on maintaining the dual listing of these securities on the New York Stock Exchange, Inc. and the Amex. The Company does not see any particular

advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock and preferred.

Any interested person may, on or before June 12, 1991, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-12451 Filed 5-24-91; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application to Withdraw from Listing and Registration; UNICARE Financial Corp., Common Stock, No Par Value (File No. 1-9966)

May 21, 1991.

UNICARE Financial Corp. ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs of expenses attendant on maintaining the dual listing of its common stock on the New York Stock Exchange, Inc. and the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before June 12, 1991, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the

Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-12452 Filed 5-24-91; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the Federal Register. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth Zaic, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205-6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: MED-Week Procurement Trade Fair Questionnaire.

Form No.: SBA Form 1808.

Frequency: On Occasion.

Description of Respondents: Participants in the Med-Week Procurement Trade Fair.

¹⁰ Securities Exchange Act Release No. 28845 (February 1, 1991) 56 FR 5437 (NSCC), and Securities Exchange Act Release No. 28855 (February 5, 1991) 56 FR 5716 (MCC).

Annual Responses: 3,000.

Annual Burden: 25.

Cleo Verbillis,

Acting Chief, Administrative Information Branch.

[FR Doc. 91-12490 Filed 5-27-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Economic Injury Disaster Loan Area #7317]

New Jersey; (With Contiguous Counties in New York); Declaration of Disaster Loan Area

Hudson County and the contiguous counties of Essex and Bergen in the State of New Jersey, and New York and Richmond Counties in the State of New York constitute an Economic Injury Disaster Loan Area due to damages caused by a fire which occurred on April 5, 1991 on East 22nd Street in the City of Bayonne. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on February 18, 1992 at the address listed below:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Fl., Occidental Chemical Center, Niagara Falls, NY 14302.

or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number assigned to the State of New York is 731800.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: May 15, 1991.

June M. Nichols,

Acting Administrator.

[FR Doc. 91-12489 Filed 5-24-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended May 17, 1991

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47543.

Date filed: May 14, 1991.

Parties: Members of the International Air Transport Association.

Subject: TC1 Reso/C 0239 dated May 3, 1991, TC1 (except USA/US Territories) Expedited Reso 002cc (R-1),

TC12 Reso/C 0887 dated May 3, 1991, South Atlantic Expedited Resos 002ee (R-2) & 003dd (R-3), TC12 Reso/C 0889 dated May 1, 1991, North Atlantic-Africa (except USA/US Territories) Expedited, Resos 554a (R-5) and 590 (R-6), TC12 Reso/C 0892 dated May 1, 1991, North Atlantic-Middle East (except USA/US Territories), Expedited Reso 590 (R-7), TC12 Reso/C 0892 dated May 1, 1991, Canada-Europe Expedited Resos 554a (R-8) and 590 (R-9).

Proposed Effective Date: August 1, 1991.

Docket Number: 47544.

Date filed: May 14, 1991.

Parties: Members of the International Air Transport Association.

Subject: TC1 Reso/C 0240 dated May 3, 1991.

TC1 (USA/US Territories) Expedited Resos: r-1—001aa; r-2—531a; r-3—351; r-4—590.

TC12 Reso/C 0888 dated May 1, 1991 North Atlantic Expedited Reso 002ii: R-5.

TC12 Reso/C 0890 dated May 1, 1991 North Atlantic Expedited Reso 501: R-6.

Proposed Effective Date: August 1, 1991.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc 91-12470 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended May 17, 1991

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47542.

Date filed: May 14, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 11, 1991.

Description: Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for renewal of its certificate of public convenience and

necessity for Route 517 (Dallas/Ft. Worth-Tokyo).

Docket Number: 47545.

Date filed: May 15, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 12, 1991.

Description: Application of AHK Air Hong Kong Limited, pursuant to section 402 of the Act and subpart Q of the Regulations, applies for issuance of a Foreign Air Carrier permit authorizing it to operate charter all-cargo air service between Hong Kong and points in the United States and its territories and possessions.

Docket Number: 43575.

Date filed: May 15, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 12, 1991.

Description: Application of Delta Air Lines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies to renew its certificate of public convenience and necessity to permit Delta to continue to operate nonstop Portland, Oregon-Tokyo, Japan services.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc 91-12469 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Approval of Noise Compatibility Program Greater Rockford Airport, Rockford, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Greater Rockford Airport Authority under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On March 23, 1990, the FAA determined that the noise exposure maps submitted by the Greater Rockford Airport Authority under part 150 were in compliance with applicable requirements. On April 23, 1991, the Assistant Administrator for Airports approved the Greater Rockford Airport noise compatibility program, as supplemented and revised by errata and addenda from the airport operator dated January 10, 1991. A total of sixteen (16)

measures are included in the Greater Rockford Airport Authority's recommended program. Five are listed as Noise Abatement Measures, eight are listed as Land Use Management Measures and three are Other Implementation Measures (Continuing Planning). The FAA has approved twelve measures, disapproved two measures for purposes of part 150 and gave partial approval/partial disapproval to two measures.

EFFECTIVE DATE: The effective date of the FAA's approval of the Greater Rockford Airport noise compatibility program is April 23, 1991.

FOR FURTHER INFORMATION CONTACT: Jerri L. Horst, Federal Aviation Administration, Great Lakes Region, Chicago Airports District Office, CHI-ADO-640.8, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694-7524. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Greater Rockford Airport, effective April 23, 1991.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Chicago Airports District Office in Des Plaines, Illinois.

The Greater Rockford Airport Authority submitted to the FAA on May 19, 1989, noise exposure maps, descriptions and other documentation. This documentation was produced during the Airport Noise Compatibility Planning (part 150) Study at Greater Rockford Airport from September 9, 1988 through April 1991. The Greater Rockford Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 23, 1990. Notice of this determination was published in the Federal Register on April 6, 1990.

The Greater Rockford Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the

year 2000. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on October 26, 1990 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period would have been deemed to be an approval of such program.

The submitted program, as supplemented and revised by errata and addenda from the airport operator dated January 10, 1991, contained sixteen (16) proposed measures for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective April 23, 1991.

Five of the sixteen measures submitted were listed as "Noise Abatement Measures". Most of these noise abatement measures were designed to alter flight tracks and all were approved. Eight of the sixteen measures submitted are listed as "Land Use Management Measures", of which four were approved outright. Of these four land use measures, two are preventive measures including adopting part 150 NCP as a comprehensive plan element and adopting guidelines for discretionary review. Two other of these four land use management measures are corrective measures such as acquiring or urging others to acquire noise impacted homes. Two additional land use management measures were disapproved for purposes of part 150 because they did not conform to the statutory and regulatory criteria of reducing or preventing noncompatible land uses within the area covered by the noise exposure map. Two land use management measures were approved in part, and disapproved in part for not conforming to the statutory and regulatory criteria of reducing or preventing non-compatible land uses within the area covered by the noise exposure map. Finally, three measures, "Other Implementation Measures" dealing with continuing planning were also approved outright. These determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on April 23, 1991. The Record of Approval, as well as other evaluation materials and documents which comprised the

submittal to FAA are available for review at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591.

Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, room 261, Des Plaines, Illinois 60018.

Federal Aviation Administration, Chicago Airports District Office, Great Lakes Region, 2300 East Devon Avenue, room 258, Des Plaines, Illinois 60018.

Greater Rockford Airport Authority, Greater Rockford Airport, 2 Airport Circle, Rockford, Illinois 61109.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Des Plaines, Illinois, May 6, 1991.

Louis H. Yates,

Manager, Chicago Airports District Office, FAA Great Lakes Region.

[FR Doc. 91-12472 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-13-M

Acceptance of Noise Exposure Maps for Stockton Metropolitan Airport, Stockton, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Stockton Metropolitan Airport for Stockton Metropolitan Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is May 10, 1991.

FOR FURTHER INFORMATION CONTACT: David Cross, Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010-1303, Telephone: 415/876-2779.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Stockton Metropolitan Airport are in compliance with applicable requirements of part 150, effective May 10, 1991.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA

noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Stockton Metropolitan Airport. The specific maps under consideration are Exhibits V-1 and V-2 in the submission. The FAA has determined that these maps for Stockton Metropolitan Airport are in compliance with applicable requirements. This determination is effective on May 10, 1991. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map

depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591

Federal Aviation Administration, Western-Pacific Region, Airports Division, room 3E24, 1500 Aviation Boulevard, Hawthorne, California 90261

Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010-1303

Mr. Dan DeAngelis, Airport Manager, Stockton Metropolitan Airport, 5000 South Airport Way, Stockton, California 95206

Questions may be directed to the individual named above under the heading.

Issued in Hawthorne, California on May 10, 1991.

Herman C. Bliss,

Manager, Airports Division, AWP-600.

[FR Doc. 91-12473 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-13-M

Missouri; Informal Airspace Meetings; Notice

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of informal airspace meeting.

SUMMARY: This notice announces an informal airspace meeting to discuss the modification of the Kansas City, MO, Terminal Control Area (TCA). Alteration of the TCA is being proposed as a means of containing arriving and departing aircraft within the TCA after the new parallel runway (01R/19L) is completed.

DATE: The informal airspace meeting will be held on September 4, 1991.

ADDRESS: The informal airspace meeting location is as follows: Kansas City, MO TCA. Date: September 4, 1991. Time: 7 p.m. Location: Kansas City Airport Marriott 775 Brasilia, Kansas City, MO.

FOR FURTHER INFORMATION CONTACT:

Mr. Dale Carnine, Air Traffic Division,
Federal Aviation Administration, 601
East 12th Street, Kansas City, MO 64106;
telephone: (816) 426-3408.

Issued in Kansas City, MO on May 6, 1991.

Bryan Burleson,

*Acting Manager, Air Traffic Division, Central
Region.*

[FR Doc. 91-12471 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY**Office of the Secretary**

[Department Circular—Public Debt Series—
No. 17-91]

**Treasury Notes of May 31, 1993, Series
AB-1993**

Washington, May 16, 1991.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately \$12,250,000,000 of United States securities, designated Treasury Notes of May 31, 1993, Series AB-1993 (CUSIP No. 912827 A9 3), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated May 31, 1991, and will accrue interest from that date, payable on a semiannual basis on November 30, 1991, and each subsequent 6 months on May 31 and November 30 through the date that the principal becomes payable. They will mature May 31, 1993, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest

thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of \$5,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, Wednesday, May 22, 1991, prior to 12 noon, Eastern Daylight Saving time, for noncompetitive tenders and prior to 1 p.m., Eastern Daylight Saving time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 21, 1991, and received no later than Friday, May 31, 1991.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is \$5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than \$1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of competitive tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final.

If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Friday, May 31, 1991. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, May 29, 1991.

When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 91-12602 Filed 5-23-91; 11:06 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 18-91]

Treasury Notes of May 31, 1996, Series P-1996

Washington, May 16, 1991.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately \$9,250,000,000 of United States securities, designated Treasury Notes of May 31, 1996, Series P-1996 (CUSIP No. 912827 B2 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes

may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated May 31, 1991, and will accrue interest from that date, payable on a semiannual basis on November 30, 1991, and each subsequent 6 months on May 31 and November 30 through the date that the principal becomes payable. They will mature May 31, 1996, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of \$1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, Thursday, May 23, 1991, prior to 12 noon, Eastern Daylight Saving time, for noncompetitive tenders and prior to 1 p.m., Eastern Daylight Saving time, for competitive tenders. Noncompetitive

tenders as defined below will be considered timely if postmarked no later than Wednesday, May 22, 1991, and received no later than Friday, May 31, 1991.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is \$1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than \$1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of competitive tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or buy a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the

lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5, must be made or completed on or before Friday, May 31, 1991. Payment in full must accompany tenders submitted by all other investors. Payment must be in

cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, May 29, 1991.

When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is

pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 91-12603 Filed 5-23-91; 11:06 am]

BILLING CODE 4810-40-M

CUSTOMS SERVICE

[T.D. 91-48]

Country-of-Origin Marking Requirement on Frozen Produce Packages; Revocation of Ruling and Request for Comments Regarding Effective Date for Change in Practice

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

ACTION: Revocation of ruling letter and solicitation of public comments.

SUMMARY: On February 27, 1991, the U.S. Court of International Trade, per Judge Musgrave, issued its decision in *Norcal/Crosetti Foods, Inc., et al. v. U.S. Customs Service, et al.*, Slip Op. 91-12, 758 F.Supp. 729, a case which concerned the country of origin marking of frozen produce. The court found that marking placed on the rear panel of imported frozen produce packages was neither located in a conspicuous place nor set forth as legibly as the nature of the containers would permit, as required by statute. The court also determined that in order to be in compliance with the statutory requirements the country of origin marking for frozen produce must be placed on the front panel of the package. The court remand the matter to Customs with directions to issue a new ruling within 90 days of February 27, 1991 (not later than May 28, 1991), that revoked any Customs decisions or rulings not in accordance with the court's decision. This document constitutes the mandated corrective ruling and solicits comments concerning the date the country of origin marking change for frozen produce packages should be made effective.

DATES: Comments (preferably in triplicate) must be received on or before July 29, 1991.

ADDRESSES: Written comments may be submitted to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service Headquarters, room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Gregory R. Vilders, Office of Regulations and Rulings (202) 566-2938.

SUPPLEMENTARY INFORMATION:

Background

The marking statute, section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit in such a manner as to indicate to the ultimate purchaser the English name of the country of origin of the article. Part 134, Customs Regulations (19 CFR part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304. With regard to the conspicuousness and legibility requirements, § 134.41(b), Customs Regulations (19 CFR 134.41(b)), provides that the ultimate purchaser in the U.S. must be able to find the marking easily and read it without strain.

On May 9, 1988, Norcal/Crosetti Foods, Inc., a California packager of frozen produce, and others requested a ruling regarding the conspicuousness of country of origin markings on packages of imported frozen produce. It was the requesters' position that imported frozen produce packages were neither conspicuously marked, in that the location of the marking was not on the front of the package, nor were the markings employed easily found, in that the lettering was not at least as prominent as the lettering of the product description and/or appear in a type style or color vividly contrasting with the rest of the front panel. Customs Headquarters denied the ruling request (HRL 731830 dated November 21, 1988), stating that the industry practice of marking the country of origin on the back panel usually near the nutritional information and the expiration date of food products satisfied the requirements of 19 U.S.C. 1304 and 19 CFR part 134.

Following Customs denial of the ruling request, Norcal brought suit, which was subsequently decided by the U.S. Court of International Trade. The court, per Judge Musgrave, found that the present practice of marking the country of origin on the rear panels of frozen produce packages was neither conspicuous nor as legible as the nature of the packages would permit, as customers were unable to scan the labels as easily as they could those on dry goods of other produce that was not frozen, because the packages were frozen and "cold to the touch." The court held that, to be conspicuous, the country of origin marking for such merchandise must be located on the front panel of the package and must be marked in a type size and style so as to be conspicuous. On remanding the

matter to Customs for action in compliance with the decision, the court directed Customs to submit a new ruling letter to the court not later than 90 days from the date of the order (February 27, 1991).

Statement of Position

The U.S. Customs Service has filed a Notice of Appeal with the U.S. Court of Appeals for the Federal Circuit (April 25, 1991). However, in order to comply with the court's order regarding issuing a new ruling letter in this matter, Customs hereby adopts those findings and determinations made by the court in *Norcal*, subject to such modifications as may be directed by the appellate court, concerning the proper location of and the type size and style to be employed in marking the country of origin on frozen produce packages.

Effect on Previous Customs Rulings

Customs Headquarters Ruling Letter (HRL) 731830 dated November 21, 1988, which held that the country of origin marking on packages of imported frozen produce need not appear on the front panel of the package, is revoked. Although we are unaware of any other rulings which are not in accordance with the court's decision, parties may seek clarification regarding the continued viability of any ruling which they believe may be inconsistent with the *Norcal* decision.

Comments

Because of the unique circumstances of this case, Customs has not previously had the opportunity to consider comments from interested persons regarding the impact this new marking requirement may have on importers of frozen produce and how much time is reasonably needed to comply. Accordingly, before implementing this country of origin marking policy for frozen produce packages, and mindful of Judge Restani's comments in *National Juice Products Association v. United States*, 10 CIT 48, 66, 628 F.Supp. 978 (1986), regarding the propriety of seeking comments from interested parties concerning the effective date of policy changes which have a significant impact on an entire industry, Customs seeks public comment as to when this marking change should be implemented.

Before making a determination on this matter, Customs will consider any written comments timely submitted respecting the earliest practicable implementation date for the requirement that the country of origin marking on imported frozen produce packages must be located on the front panel of the

package and must be marked in a type size and style so as to be conspicuous. Prior to that date, importers may continue to enter frozen produce marked in accordance with the existing industry practice. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9 a.m. and 4:30 p.m. on normal business days, at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229. Following a careful review of all the issues raised, another Federal Register Notice will be published announcing the date the country of origin marking scheme for frozen produce packaging will be effective.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: May 23, 1991.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 91-12660 Filed 5-23-91; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Central American Teacher Training Institute (CATT 6)

AGENCY: United States Information Agency.

ACTION: Announcement.

SUMMARY: The United States Information Agency (USIA); Bureau of

Educational and Cultural Affairs; Office of Academic Programs; American Republics Branch; solicits proposals from U.S. accredited institutions of higher education with at least four years' expertise in the field of teaching English as a Foreign Language (TEFL), and experience in handling cross-cultural programs in Latin America to conduct a six week Central American Teacher Training Institute for approximately 26 Central American TEFL teachers/teacher-trainers during January-February 1992.

DATES: Deadline for proposals: Must be received at USIA by 5 p.m. EDT on June 14, 1991. Faxed documents will not be accepted, nor will documents post-marked June 14th but received at a later date.

APPROXIMATE PROGRAM DATES: January 12, 1992 to February 29, 1992.

GRANT PERIOD: Approximate time period for the activities should be from September 1, 1991 to June 1, 1992. Organization and planning for the institute should begin around September 1, 1991 and the termination date should be 90 days after the end of the program date, around June 1, 1992, to cover mailing of educational materials and the required end-of-program report.

BUDGET: A maximum of \$135,000 will be available for this program. No funds may be expended until the agreement is signed by the recipient and the Agency.

ADDRESSES: Fifteen copies of the proposal, labeled "Central American Teacher Training Institute (CATT 6), including USIA cover sheet and required forms, should be submitted to the office below: U.S. Information Agency, Bureau of Educational and Cultural Affairs, Office of the Executive Director, E/X,

room 336, 301 4th Street, SW., Washington, DC 20547.

REQUIRED FORMS: USIA cover sheet, Assurance of Compliance form; Certification Regarding Drug-Free Workplace Requirements; Certification Regarding Debarment, Suspension, and Other Responsibility Matters; and Certification for Contracts, Grants and Cooperative Agreements with appropriate Disclosure of Lobbying Activities forms. These forms may be obtained by contacting the Program Officer listed below.

FOR FURTHER INFORMATION CONTACT: A grant package containing a detailed description of the program and requirements with required forms is available through: Program Officer Paula Curry, USIA, 301 4th Street SW., Office of Academic Programs, American Republics Branch (E/AEL), room 246, Telephone (202) 619-5398, Fax 202-401-1720.

SUPPLEMENTARY INFORMATION: The authority for this exchange program is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87-256 (Fulbright-Hays Act). The Fulbright Program seeks to increase mutual understanding between the people of the United States and people of other countries. Programs and projects must conform with all Agency requirements and guidelines and are subject to final review by the USIA contracting officer.

Dated: May 21, 1991.

William P. Glade,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 91-12545 Filed 5-24-91; 8:45 am]

BILLING CODE 5230-01-M

Sunshine Act Meetings

Federal Register

Vol. 56, No. 102

Tuesday, May 28, 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).

DEPARTMENT OF JUSTICE

PAROLE COMMISSION

Public Announcement: Pursuant To The Government In the Sunshine Act (Public Law 94-409) [5 U.S.C. Section 552b]

TIME AND DATE: 1:00 p.m., Tuesday, May 28, 1991.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Case Operations, Program Coordinator and Administrative Sections.
3. Discussion with Regional Administrators regarding any specific problems being encountered.
4. Discussion of Technical Parole Violator Alternative Sanctions Task Force Recommendations.
5. Discussion on the realignment of the Regional Offices.
6. The Commission's response to *White v. White*, 25 F.2d 257 (9th Cir. 1991).
7. Discussion on Decisions to depart from the D.C. Guidelines.
8. Proposal for handling of Special Parole Term cases where prisoner should have received supervised release; Discussion of *Gozlon-Peretz v. United States*, 111 S.Ct. 840 (1991).
9. The final rule regarding searches of Federal Parolees by U.S. Probation Officers.
10. Presentation of the nominations for the recipient of the Daniel R. Lopez Memorial Award.

CONSENT AGENDA: The following matters have been placed on the consent agenda and will be considered at the open meeting only if a Parole Commissioner requests that they be discussed at the meeting:

1. Final Rule on rating solicitation offenses.
2. Final Rule on distinguishing between "simple couriers" and "transporters" in illegal drug cases.
3. Final Rule on the total abstinence from alcohol requirements for parolees in special drug and alcohol treatment programs.
4. Final Rule on the effect of acquittals on admissibility of evidence in parole hearings.
5. Petition for rule-making under 5 U.S.C. § 553(e): Rule prohibiting "double counting."

6. Delegation of authority to Regional Administrators to approve or deny travel; Rules and Procedures § 2.41-01.

Note: Earlier announcement of this meeting was not possible due to the delay in appointing a new chairman for the Commission following the death of Chairman Benjamin F. Baer, and the urgency of holding a Commission meeting as soon as possible to go forward with pending agency business.

AGENCY CONTACT: Linda Wines Marble, Director, Case Operations and Program Development, United States Parole Commission, (301) 492-5962.

Dated: May 22, 1991.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 91-12653 Filed 5-23-91; 2:01 p.m.]

BILLING CODE 4410-1-M

DEPARTMENT OF JUSTICE

PAROLE COMMISSION

Public Announcement: Pursuant To The Government In The Sunshine Act (Public Law 94-409) [5 U.S.C. Section 552b]

TIME AND DATE: 9:00 a.m. to 12:00 p.m., Friday, May 31, 1991.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

1. Appeals to the Commission of approximately 12 cases decided by the National Commissioners pursuant to a reference under 28 CFR § 2.17. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE

INFORMATION: Jeffrey Kostbar, Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5968.

Dated: May 22, 1991.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 91-12654 Filed 5-23-91; 2:01 pm]

BILLING CODE 4410-1-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Reauthorization Committee Hearing and Meeting; Notice

TIME AND DATE: A hearing and meeting of the Board of Directors Reauthorization Committee will be held on June 3, 1991. The hearing will

commence at 9:30 a.m., and the meeting will commence immediately following the hearing.

PLACE: The Madison Hotel, 15th and "M" Streets, N.W., Washington, D.C. 2005, The Executive Chambers, (202) 862-1600.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

A. HEARING:

1. Approval of Agenda.
2. Public Comment on Reauthorization of the Legal Services Corporation.
3. The Legal Services Corporation Act.
4. The 1991 Subcommittee Bill on the Legal Services Corporation.
5. The March 7, 1991 McCollum-Stenholm Bill.

B. MEETING:

1. Approval of Minutes of April 20, 1991; Meeting, Continued on April 28, 1991.
2. Consideration of Public Comment and Possible Recommendation to the Board of Directors Regarding the Reauthorization of the Legal Services Corporation.

CONTACT PERSON FOR INFORMATION:

Patricia Batie, Executive Office (202) 863-1839.

Dated issued: May 23, 1991.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 91-12676 Filed 5-23-91; 3:58 pm]

BILLING CODE 7050-01-M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1 p.m. on Monday, June 3, 1991, and at 8:30 a.m. on Tuesday, June 4, 1991, in Louisville, Kentucky. The June 3 meeting, at which the Board will: (1) Consider a new filing with the Postal Rate Commission for barcode discounts on flats and parcels (see 56 FR 20644, May 6, 1991) and (2) consider the Postal Rate Commission's recommended decision in Docket No. R90-1, is closed to the public.

By telephone vote, May 21-22, 1991, a majority of the members contacted and voting, the Board of Governors voted to add to the agenda of the June 3 meeting consideration of the Postal Rate

Commission decision. 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 the PRC decision 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 rate making, 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 39 United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, this discussion is exempt because it is 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 matter be open to the public.

The June 4 meeting is open to the public and will be held in Room 304, Louisville Division Office, 134 Gardiner Lane. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

Agenda

Monday Session

June 3—1 p.m. (Closed)

1. Consideration of a Filing with the Postal Rate Commission for Barcode Discounts on Flats and Parcels.
2. Consideration of the Postal Rate Commission's Further Opinion and Recommended Decision Upon Reconsideration in Docket No. R90-1.

Tuesday Session

June 4—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, April 29-30, 1991.

2. Capital Investments. (Stanley W. Smith, Assistant Postmaster General, Facilities Department)

- a. Miami, Florida, Air Mail Facility.
- b. El Segundo, California, Bay Cities Annex.
- c. Charleston, South Carolina, General Mail Facility.

3. Remarks of the Postmaster General. (Anthony M. Frank)

4. Report on the Mailgram Program.

5. Briefing on the Philatelic Program.

(Gordon C. Morison, Assistant Postmaster General, Philatelic and Retail Sales Department)

6. Report on the Eastern Region. (Samuel Green, Jr., Regional Postmaster General)

7. Report on Louisville Division. (James D. Syers, Field Division General Manager/Postmaster)

8. Semiannual Report of the Chief Postal Inspector. (Charles R. Clauson, Chief Postal Inspector)

9. Tentative Agenda for July 1-2, 1991, meeting in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc 91-12606 Filed 5-23-91; 11:31 am]

BILLING CODE 7710-12-M

Corrections

Federal Register

Vol. 56, No. 102

Tuesday, May 28, 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.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 55 (Sub-No. 81)]

Commission Regulations: Technical Amendments

Correction

In rule document 91-9480 beginning on page 18532 in the issue of Tuesday, April 23, 1991, make the following correction:

Appendix to Part 1152 [Corrected]

1. On the same page, in the third column, in the appendix to part 1152, in AB No. 295, "Indian" should read "Indiana".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6849

[NV-930-91-4214-10; Nev-051742]

Mineral Withdrawal of a Portion of the Sheldon National Wildlife Refuge; Nevada

Correction

In rule document 91-9376 beginning on page 12678 in the issue of Monday, April 22, 1991, make the following corrections:

1. In the Mount Diablo Meridian land description on page 12678:

a. In the 2d column, the ninth line of the description should read, "Sec. 15, NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,".

b. In the 3d column, the 33d line should read, "Sec. 21, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$,".

2. On page 12679, in the 2d column:

a. The 7th line should read, "W $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$,".

b. The 11th line should read, "Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,".

c. The 14th line should read, "W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$,".

d. The 22d line should read, "Sec. 21, E $\frac{1}{2}$, SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,".

e. The 45th line should read, "E $\frac{1}{2}$ SE $\frac{1}{4}$,".

3. On page 12680, in the 1st column, the 49th line should read "Sec. 14, NW $\frac{1}{4}$ NW $\frac{1}{4}$,".

BILLING CODE 1505-01-D

Connections

The Office of the Federal Register publishes editorial comments on proposed regulations. These comments are published in the Federal Register, and they discuss the proposed regulations and the comments received from interested parties. The comments are published in the Federal Register, and they discuss the proposed regulations and the comments received from interested parties.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152
(25 Pages, 25 Pages, 25 Pages)
Commission Regulation Technical Amendments

In the document 49-1152-01, published on page 10522 in the issue of Tuesday, April 22, 1997, make the following correction:

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Orders

Inventory of the National Forest System

Mineral Withdrawal of a Portion of the

Shoshone National Wildlife Refuge,

Nevada

Comments

In the document 43-1152-01, published on page 10522 in the issue of Monday, April 22, 1997, make the following correction:

1. In the Mineral Withdrawal and

Reservation on page 10522.

Tuesday
May 28, 1991

Best of the Best

Part II

Department of Education

Rehabilitation Services Administration

Protection and Advocacy of Individual Rights; Notice

DEPARTMENT OF EDUCATION**Rehabilitation Services Administration****Protection and Advocacy of Individual Rights; Notice****AGENCY:** Department of Education.**ACTION:** Notice of proposed priority for fiscal year 1991.

SUMMARY: The Secretary of Education proposes a priority for fiscal year 1991 for grants to develop pilot projects to protect and advocate for the rights of individuals with severe disabilities who are receiving services under title VII of the Rehabilitation Act of 1973, as amended, (Act) and who are not eligible for services provided by existing protection and advocacy or ombudsman programs or whose request for services cannot be provided by client assistance programs funded under section 112 of the Act.

DATES: Comments must be received on or before June 27, 1991.

ADDRESSES: All comments concerning this proposed priority should be addressed to Michael Morgan, Office of Developmental Programs, Rehabilitation Services Administration, Department of Education, room 3038 Switzer Building, 400 Maryland Avenue, SW., Washington, DC 20202-2575.

FOR FURTHER INFORMATION CONTACT: Thomas Finch, Office of Developmental Programs, Rehabilitation Services Administration, room 3319 Switzer Building, 400 Maryland Avenue, SW., Washington, DC 20202-2741. Telephone: (202) 732-1396. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Section 731 (part D of title VII) of the Rehabilitation Act of 1973, as amended, authorizes grants to States to establish systems for the protection and advocacy of the rights of individuals with severe disabilities receiving services under title VII. The Secretary proposes to conduct a competition for pilot projects to establish a protection and advocacy program for those individuals.

The legislative history of section 731 indicates that Congress intended to have the Protection and Advocacy of Individual Rights (PAIR) program coordinated with existing protection and advocacy programs and systems in the State to avoid duplication of services. Although the fiscal year 1991 Appropriations Act is silent, the Senate committee report accompanying the

fiscal year 1991 Appropriations Act encourages projects established under section 731 of the Act to include within the services that they provide the protection and advocacy of those rights established in the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act of 1990.

Eligible Applicants

An eligible applicant is the State through its Governor. The Governor shall designate a State agency to conduct the protection and advocacy system under section 731 of the Act that is independent of the designated State unit for vocational rehabilitation or any other agency that provides services under Title VII of the Act.

Proposed Priority

In accordance with the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.105(c)(3), the Secretary proposes to set aside funds and give an absolute preference to applications that respond to the proposed priority described in this notice for fiscal year 1991. An absolute priority is one that permits the Secretary to select for funding only those applications proposing statewide pilot projects that meet the priority. The Secretary invites public comment on the merits of the proposed priority, including suggested modifications to the proposed priority.

The final priority will be announced in the *Federal Register*. The final priority will be determined by responses to this notice, available funds, and other departmental considerations. The publication of this proposed priority does not bind the United States Department of Education to fund projects in this service area, unless otherwise specified by statute. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received.

A State shall provide the Secretary with assurances that projects established with grants made under section 731 of the Act will have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of individuals with severe disabilities receiving services under Title VII of the Rehabilitation Act within the State. A State shall assure that a protection and advocacy system funded under section 731 of the Act will be independent of any designated State unit that provides services under title VII of the Act to those individuals. A State shall also assure that the designated agency to conduct the protection and advocacy

system under section 731 of the Act will utilize mediation to the maximum extent feasible prior to resorting to administrative or legal remedies.

To prevent duplication of services, the State shall assure that the agency designated to conduct this program has knowledge of the eligibility requirements and the range of services provided by the following programs and will coordinate, as appropriate, with—

(1) The system to protect and advocate for the rights of individuals with developmental disabilities required under the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1978;

(2) The system to protect and advocate for the rights of mentally ill individuals required under the Protection and Advocacy for Mentally Ill Individuals Act of 1986;

(3) The system to provide ombudsman services on behalf of individuals receiving long-term care required under the Older Americans Act;

(4) The client assistance program required under section 112 of the Rehabilitation Act of 1973, as amended;

(5) The advocacy services provided by centers for independent living within the State; and

(6) The investigative and conciliation services funded under the Fair Housing Amendments Act of 1988.

Priority would be given to statewide pilot projects that will protect and advocate for the rights of individuals with severe disabilities who are receiving services under title VII of the Rehabilitation Act of 1973, as amended, and who are not eligible for services provided by existing protection and advocacy or ombudsman programs, or whose request for services cannot be provided by client assistance programs funded under section 112 of the Act. "Individual with severe disabilities" means an individual whose ability to function independently in family or community or to engage or continue in employment is so limited by the severity of his or her physical or mental disability that independent living rehabilitation services are required for the individual to achieve a greater level of independence in functioning in family or community or engaging or continuing in employment.

Projects funded under this priority must—(1) Provide protection and advocacy services to individuals with severe disabilities receiving independent living services under title VII of the Rehabilitation Act to ensure the protection of their rights under the Rehabilitation Act and, to the extent necessary to achieve their independent

living goals, the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act of 1990, and other applicable Federal, State, and local laws; (2) Engage in cooperative activities with relevant public and private agencies and organizations to address barriers that prevent these individuals from achieving their independent living goals; and (3) Conduct a self-evaluation to assist the Secretary in determining the effectiveness of the pilot demonstration projects and the future directions and scope of Federal funding of protection and advocacy services for individuals with severe disabilities.

Projects funded under this priority must build upon existing systems to carry out activities not already funded by other sources or to serve individuals not already served by other programs.

The applicant shall describe how the project will inform individuals with

severe disabilities of their rights and will assist those individuals in pursuing remedies under the Rehabilitation Act of 1973, as amended, the Fair Housing Amendments Act of 1988, and the Americans with Disabilities Act of 1990.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in room 3038, Mary Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

(Authority: 29 U.S.C. 796g).

(Catalog of Federal Domestic Assistance No. 84.240, Protection and Advocacy of Individual Rights)

Dated: May 21, 1991.

Lamar Alexander,

Secretary of Education.

[FR Doc. 91-12445 Filed 5-24-91; 8:45 am]

BILLING CODE 4000-01-M

50th Anniversary of the National Observance of the 50th Anniversary of World War II

Tuesday
May 28, 1991

Part III

The President

Proclamation 6299—Week for the
National Observance of the 50th
Anniversary of World War II

May 28, 1941
Tuesday

Part III

The President

Proclamation 6289—Week for the
National Observance of the 50th
Anniversary of World War II

President Franklin D. Roosevelt

Presidential Documents

Title 3—

Proclamation 6299 of May 23, 1991

The President

Week for the National Observance of the 50th Anniversary of World War II

By the President of the United States of America

A Proclamation

When the United States entered World War II half a century ago, it became engaged in a struggle for the fate of millions of people—and for the future of freedom on Earth. During the period that commemorates the 50th anniversary of this conflict, we do well to study its lessons and to honor all of those Americans who helped to achieve the Allied victory.

Following America's entry into World War II, President Franklin Roosevelt declared that we fought

to uphold the doctrine that all men are equal in the sight of God . . . There never has been—there never can be—successful compromise between good and evil. Only total victory can reward the champions of tolerance and decency, freedom and faith.

That unwavering sense of purpose would characterize the actions of all Americans, both on the home front and on the field of battle, as they rallied to defend the cause of freedom.

President Roosevelt aptly described World War II as "the most tremendous undertaking in American history." In homes, schools, and churches across the Nation, on our farms and in our factories, citizens of every age and every walk of life labored and sacrificed to support the Allied military effort. From the Aleutian Islands to the Coral Sea, from the shores of northwest Africa to Anzio, Normandy, and the Rhineland, members of our Armed Forces braved the horrors of battle to defend the lives and liberty of others. Hundreds of thousands of these heroes gave "the last full measure of devotion" in service to our country, and we will never forget them.

Six long years after the war first began, the Allies secured the unconditional surrender of Nazi Germany and Imperial Japan. President Truman noted that the Allied triumph was

more than a victory of arms. It was a victory of one way of life over another . . . We know now that the basic proposition of the worth and dignity of man is not a sentimental aspiration or a vain hope or a piece of rhetoric.

Those words are still true today.

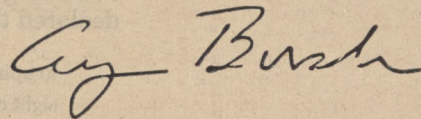
We live in a world transformed by World War II. The Allied victory affirmed America's leadership in global affairs, and it led to the formation of the United Nations as a vehicle for promoting international peace and security. Moreover, it contained what President Truman called a "promise to people everywhere who join us in the love of freedom"—a promise that we have begun to see fulfilled with the emergence of democratic governments around the world and with the movement toward a Europe whole and free.

This week, let us remember in prayer all those heroes who gave their lives for the universal cause of freedom during World War II. Let us honor the World War II veterans who are with us today, especially the infirm and the hospitalized, and let us salute the millions of civilians who rallied in support of their efforts. Most important, let us resolve to learn from the past, so that we too might be faithful and effective guardians of liberty.

The Congress, by Public Law 101-491, has designated the week of June 2 through June 8, 1991, as a "Week for the National Observance of the 50th Anniversary of World War II" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of June 2 through June 8, 1991, as a Week for the National Observance of the 50th Anniversary of World War II. I call upon all Americans to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 23 day of May, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 91-12722

Filed 5-24-91; 10:29 am]

Billing code 3195-01-M

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S.J. Res. 127/Pub. L. 102-49

To designate the month of May 1991, as "National Huntington's Disease Awareness Month". (May 22, 1991; 105 Stat. 253; 1 page)
Price: \$1.00

CFR CHECKLIST

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² No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

³ No amendments to this volume were promulgated during the period Apr. 1, 1989 to Mar. 31, 1990. The CFR volume issued April 1, 1989, should be retained.

⁴ No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

⁵ No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1990. The CFR volume issued July 1, 1989, should be retained.

⁶ 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.

⁷ 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.

