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November 1, 1991

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: November 25, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from Metro Center to southwest corner of 11th and L Streets

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Presidential Documents

Title 3—

The President

Proclamation 6368 of October 30, 1991

National American Indian Heritage Month, 1991

By the President of the United States of America

A Proclamation

During our annual observance of National American Indian Heritage Month, we celebrate and study the rich history and folklore of America's native peoples. Long before this country was settled by immigrants from around the world, it was the home of generations of Native Americans. Each of the many different tribes that inhabited this vast country had a unique and vibrant culture, as well as its own system of social order. The first European settlers in the New World benefitted greatly from what they learned from this country's original inhabitants, who gave them a wealth of knowledge and skills in such areas as hunting, farming, and crafting tools. Today all Americans can continue to learn from the rich heritage of this country's native peoples.

By the time we reach adulthood, most of us are familiar with the legends of Pocahontas, Geronimo, Sacajawea, and Hiawatha. However, National American Indian Heritage Month provides an opportunity to learn more about the contributions and the achievements of countless other Native Americans. This month, we remember individuals such as Seattle, the chief and orator for whom the great city in Washington is named; Sequoyah, who taught thousands of his fellow Cherokee to read and write; and Ely Parker, the son of a Seneca leader, who served as an officer under General Ulysses S. Grant during the Civil War and became the first Indian to serve as Commissioner of Indian Affairs. Fifty years after the beginning of United States participation in World War II, we also honor the Navajo code-talkers, whose use of their native tongue and secret code words was never broken by enemy forces.

Every tribe of Native Americans is unique, and each has celebrated heroes of its own. Yet together generations of Native Americans have quietly strengthened and enriched the United States. American culture has been greatly influenced by the customs and traditions of this country's native peoples, and all of us can be grateful for their outstanding example of environmental stewardship.

This month, we also celebrate the unique government-to-government relationship that exists between Indian tribes and the Federal Government. That relationship has weathered various conflicts, inequities, and changes over the years, evolving into a vibrant partnership in which more than 500 tribal entities stand shoulder to shoulder with the other governmental units that form our Republic. We will continue to seek greater mutual understanding and trust in this relationship, as well as the further advancement of tribal self-government.

The Congress, by Senate Joint Resolution 172, has designated the month of November 1991 as "National American Indian Heritage Month" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim November 1991 as National American Indian Heritage Month. I urge all Americans, as well as their elected representatives at the Federal, State, and local levels, to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, 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 sixteenth.

George Bush

[FR Doc. 91-26565
Filed 10-30-91; 4:07 pm]
Billing code 3195-01-M

Presidential Documents

Memorandum of October 21, 1991

Delegation of Authority Regarding Report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the Expenditure of Funds for Humanitarian and Development Assistance for Cambodians

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of Title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in me by section 562A(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513), relating to the submission of a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives regarding expenditure of funds for humanitarian and development assistance for Cambodians. The authority delegated by this memorandum may be further redelegated within the Department of State.

You are authorized and directed to publish this memorandum in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, October 21, 1991

[FR Doc. 91–26556
Filed 10–30–91; 3:37 pm]
Billing code 3195–01–M

Rules and Regulations

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-38-AD; Amendment 39-8076; AD 91-23-07]

Airworthiness Directives; Beech 33 and 36 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Beech 33 and 36 series airplanes. This action supersedes AD 90-11-04, which currently requires initial and repetitive inspections of the rudder forward spar for cracks and replacement if found cracked. This action allows for compliance adjustment of the repetitive inspections if a certain Spacecraft Machine Products reinforcement bracket is installed. The actions specified in this AD are intended to prevent the rudder from separating from the airplane.

DATES: Effective December 17, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 17, 1991.

ADDRESSES: Beech Service Bulletin No. 2333, dated October 1989, that is discussed in this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085. 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. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4122.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Beech 33 and 36 series airplanes was published in the Federal Register on June 4, 1991 (56 FR 25379). The action proposed superseding AD 90-11-04, Amendment 39-6954 (55 FR 19721, May 11, 1990) by still requiring the initial and repetitive inspections of the rudder spar with replacement if found cracked, but extending the compliance time for the repetitive inspections to 1,000 hours time-in-service if a Space Machine Products (SMP) reinforcement bracket is installed.

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

The comments received were from the manufacturer (Beech). Beech states that the compliance time of 100 hours time-in-service (TIS) in the proposed AD is in conflict with Beech SB No. 2333, which specifies 50 hours TIS. The FAA concurs that the compliance time is different than Beech SB No. 2333. The FAA has analyzed the situation described in this AD and determined that it is not an emergency and does not involve immediate flight safety. The proposed compliance time of 100 hours TIS will provide the operator/owner time to comply with this AD action. The AD has not been revised by this comment.

Beech further states that the proposed AD is also in conflict with SB No. 2333 in that it allows a 1,000-hour TIS time period before inspection if the rudder forward spar is replaced. Beech SB No. 2333 specifies a 500-hour TIS inspection even if the spar is replaced. The FAA concurs that the 1,000-hour TIS inspection time is different than Beech SB 2333. The FAA has analyzed this situation and has determined that if a new rudder forward spar is installed, then 1,000 hours TIS is adequate for an initial inspection as long as repetitive inspections are accomplished at thereafter at 500-hour TIS intervals. The AD has not been revised by this comment.

Beech states that in paragraph (a)(2) of the proposed AD, several spar part numbers are listed, and although Beech SB 2333 is referenced, it may not be clear that the only replacement spar is part number 33-630000-17. The FAA concurs and the AD has been revised accordingly.

Beech also states that part number 33-6300000-169 should be added to paragraph (c) of the AD. The FAA concurs and the AD has been revised accordingly.

In addition, the NPRM incorrectly listed the serial numbers of the Models 35-33, 35-A33, 35-B33, 35-C33, E33, F33, and G33 airplanes as CD-1 through CE-1304. The serial numbers should be CD-1 through CD-1304. The AD has been revised accordingly.

After careful consideration, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the revisions described above and minor editorial corrections. These minor revisions and corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

It is estimated that 5,900 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 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 $649,000. The above cost analysis is the same as AD 90-11-04, which will be superseded by this action. There is no additional cost impact on U.S. operators than that required by AD 90-11-04.

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, 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 removing AD 90–11–04, Amendment 39–6954 (55 FR 19721, May 11, 1990), and adding the following new AD:

91–23–07 Beech: Amendment 39–8076; Docket No. 91–CE–38–AD.

Applicability: The following Model airplanes and serial numbers, certificated in any category.

Models	Serial numbers
35–33, 35–A33, 35–B33, 35–C33, E33, F33, G33.	CD–1 through CD–1304.
35–C33A, E33A, F33A	CE–1 through CE–1425.
E33C, F33C	CJ–1 through CJ–179.
36, A36	E–1 through E–2518.
A36TC, B36TC	EA–1 through EA–500.

Compliance: Required as indicated, unless already accomplished.

To prevent separation of the rudder from the affected airplanes, accomplish the following:

(a) Upon the accumulation of 1,000 hours time-in-service (TIS) or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, inspect the rudder forward spar for cracks in accordance with the instructions in Beech Service Bulletin No. 2333, dated October 1989.

(1) If no cracking is detected, return the airplane to service and continue the inspections at intervals not to exceed 500 hours TIS.

(2) If cracking is detected, prior to further flight, replace the rudder forward spar with a new spar, part number 33–630000–17, in accordance with the instructions in Beech Service Bulletin No. 2333, dated October 1989. Reinspect within the next 1,000 hours TIS after installation and reinspect thereafter at intervals not to exceed 500 hours TIS.

(b) If the airplane has a Spacecraft Machine Products (SMP) reinforcement bracket installed in accordance with Supplemental Type Certificate (STC) SA 4899NM, the repetitive inspections required in paragraphs (a)(1) or (a)(2) may be extended to 1,000 hours TIS.

(c) If rudder assembly, part number 33–630000–137, –139, –141, –167, or –169, whichever is applicable, is installed then the inspections required by this AD may be terminated.

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

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times 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.

(f) The inspections and possible replacement required by this AD shall be done in accordance with Beech Service Bulletin No. 2333, dated October 1989. 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 the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201–0085. 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 December 17, 1991.

This amendent supersedes AD 90–11–04, Amendment 39–6954.

Issued in Kansas City, Missouri, on October 21, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–26396 Filed 10–31–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–77–AD; Amendment 39–8081; AD 91–23–12]

Airworthiness Directives; Lockheed Model L–1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Lockheed Model L–1011 series airplanes, which requires that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this amendment are not met, and that the new landing gear brake wear limits be incorporated into the FAA-approved maintenance inspection program. This amendment is prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and was unable to stop on the runway due to worn brakes. This condition, if not corrected, could result in loss of brake effectiveness during a high energy RTO and could cause the airplane to leave the runway surface, possibly resulting in injury to passengers and crew.

EFFECTIVE DATE: December 9, 1991.

ADDRESSES: The related service information may be obtained from Lockheed Aeronautical System Company, 1945 The Exchange, Atlanta, Georgia, 30339. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Gfrerer, Aerospace Engineer, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5338.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Lockheed Model L–1011 series airplanes, which would require that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this amendment are not met, and that the new landing gear brake wear limits be incorporated into the FAA-approved maintenance inspection program, was published in the **Federal Register** on May 7, 1991 (56 FR 21107).

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

One commenter concurred with the proposed rule.

Four commenters stated that the economic impact was underestimated. They stated that there would be an annual increase of operating cost due to reduced service life of the brake and additional brake removals, overhauls, manhours, and spares. The FAA disagrees. Historically, recurring costs due to consumables have not been included in its economic analysis of AD rulemaking. The cost of replacing brakes is considered to be the same as or

similar to the increased cost of a part that is routinely replaced, or the increased cost of fuel. The estimates used in the proposed rule are those direct costs associated with the initial compliance with the AD.

Another commenter stated that it is currently a common practice for operators to remove brakes before the wear pins reach the flush (fully worn) condition. This commenter expressed concern that, due to the financial impact generated by the proposed rule, this practice of early removals will be eliminated since it will be more economical for operators to use all brakes on all of their airplanes to their fullest extent. This will adversely impact the safety of the flying public. The FAA does not consider safety to be a concern as long as the brake wear does not exceed the limits stated in this rule.

This same commenter also stated that, if the practice of early removal of brakes is eliminated and operation is continued until the brake is fully worn, additional brake removals during unscheduled maintenance periods will result. This may create the possibility of additional departure delays and passengers' travel disruptions and complaints. The FAA disagrees. If an operator inspects and schedules the removal of brakes in a timely manner and in accordance with the specified limits, there should be minimum impact on departures. It is the operators' responsibility, however, to schedule such maintenance as is appropriate with their operations.

Another commenter disagreed with the standard that the FAA imposed regarding the allowance of thrust reverser credit in the calculation of the energy that the brake must absorb in its worn state; this commenter asked that the allowable wear limits be adjusted to reflect no credit for thrust reversers. The commenter's reason for objection was that the FAA would be unable to assure that brakes worn to the maximum allowable limit are capable of absorbing the additional energy if thrust reversers are not used or inoperable. The FAA concurs in part with the commenter. If thrust reversers are unavailable, it is possible that the brakes will not be able to absorb the energy of a maximum kinetic energy RTO on a dry runway, field-length limited takeoff, with all the brakes at their maximum wear state. However, the FAA does not concur that the wear limit should be based on the absence of thrust reversers. A number of factors exist which, when considered, provide an acceptable level of safety without further reducing allowable brake wear through eliminating the effect of thrust reversers. Maximum energy RTO's are a relatively rare event. Further, it is rare for airplanes to be operating with all brakes worn to their limit. In addition, thrust reversers will in almost all cases be used because flight crews are trained to apply them when bringing the airplane to a stop, especially during an RTO. It should also be noted that the energy credit allowed for thrust reversers for the purposes of this AD is based on loss of an engine and its attendant thrust reverser, and loss of an engine is not the only reason for rejecting a takeoff. Also, there is usually more runway distance available than the minimum allowable under the operating rules, which provides some stopping performance margin during an RTO. When all of these factors are considered, sufficient conservatism is present to offset the added costs associated with limiting brake wear based on the absence of thrust reversers.

One commenter stated that the rule does not appear justified considering the long history of the Model L-1011 braking system. This commenter also stated that a single incident on a completely different airplane under an extremely low probability circumstance hardly warrants the response and requirements which would be mandated in this rule. The FAA disagrees. This type of event has occurred on a transport airplane in service. Further, in light of recent data, new methodologies were developed and used to determine brake wear limits which, in some cases, are different from those currently used. The FAA has determined that these limits provide a more appropriate level of safety which more realistically reflects actual airplane usage than those currently recommended. Also, the current wear limits may not be adhered to since they currently are not mandated by the FAA; as described in the preamble to the Notice, this could result in an unsafe condition.

Two commenters requested that the compliance time be increased from the proposed 180 days to at least 365 days, since accomplishment within 180 days would require operators to schedule special brake removals at considerable expense. Such an extension would also allow operators to use spares prior to removing them for modification. The FAA disagrees. Extension of the compliance time to the time requested assumes that most of the brakes would be worn to those limits currently recommended by the manufacturer which, on some brakes, is less than that necessary to absorb the required energy during an RTO. Additionally, brakes are not removed at regularly scheduled intervals now, but are continually inspected and removed when at or near their allowable wear limit. Over the 180-day compliance period, airlines could replace brakes with brakes from spares that are configured to the new allowable wear limit; this would limit the large number of brakes needing to be replaced at the end of the 180-day compliance period. Further, if the original allowable wear limit is used and the length of the wear pin is known, cutting the wear pin indicator to a different length may be all that is needed; this could be done on the airplane.

Two commenters requested that the proposed rule be revised to require that reworked brakes that incorporate wear pins modified in accordance with BFGoodrich Service Bulletins 2-1195-32-9 and 2-1367-32-3 be identified by a new part number, which would enable the operator to track and facilitate the installation in accordance with the AD more easily. The FAA does not concur with this request. The referenced service bulletins provide instructions for rebuilding brakes to meet FAA-established worn brake RTO requirements. The intent of this AD action is to require that brakes be inspected for wear and that specified wear limits be incorporated into the FAA-approved maintenance program. The procedures for the installation of new or rebuilt brakes are included in existing maintenance procedures.

Three commenters requested that the FAA revise the rule to include Lockheed Service Bulletin 093-32-253, dated March 29, 1991, as an alternative method of compliance. One of these commenters requested that the rule specify certain additional brake usage data consistent with that specified in Lockheed Service Bulletin 093-32-253. The FAA agrees in part. The FAA has reviewed and approved Lockheed Service Bulletin 093-32-253, which lists each Model L-1011 series, its common designation name, the maximum gross take-off weight, the applicable brake part number, and associated maximum wear pin limit for each configuration. The wear pin limits for each brake listed in the Lockheed service bulletin are the same limits that were listed in the proposed rule. The FAA has determined that the final rule would be clearer to affected operators if additional information, similar to that covered in the Lockheed service bulletin were included. The final rule has been revised accordingly. This change does not change any wear pin limits.

Two commenters requested that the rule be revised to require that operators use only brakes with a 3.0 inch wear pin.

Airplanes requiring brakes with a 3.0 inch wear pin would be removed when the pin is in the flush condition, and those requiring a 2.6 inch wear pin would be removed when 0.4 inch of a 3.0 inch wear pin is remaining. This could then be controlled by the maintenance manual, maintenance checks, and a placard placed in each main gear wheel well. The FAA disagrees. The part number of these brakes were changed in order to control the wear pin limit; therefore, the control and tracking process will not be a problem. The maintenance manual is not an FAA-approved document and a placard alone is insufficient to control the timely removal of brakes.

One commenter noted that there was a typographical error in the proposed rule printed in the Federal Register on May 7, 1991. The part number listed as "2–1357–2" should be "2–1367–2". The FAA agrees and has corrected the part number in the final rule.

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

There are approximately 243 Model L–1011 series airplanes of the affected design in the worldwide fleet. It is estimated that 109 airplanes of U.S. registry will be affected by this AD, that it will take approximately 30 man hours per airplane to accomplish the required actions, and that the average labor cost will be $55 per man hour. The cost of parts to accomplish the change (cost resulting from the requirement to change the brakes before they are worn to their previously approved limits for a one-time change) is estimated to be $4,096 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $626,314.

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

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

List of Subjects in 14 CFR part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

91–23–12. Lockheed: Amendment 39–8081. Docket No. 91–NM–77–AD.

Applicability: Model L–1011 series airplanes, equipped with BFGoodrich brake part numbers identified in paragraph (a) of this AD, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent the loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after the effective date of this AD, inspect the brake part numbers shown below for wear. Any brake worn more than the maximum wear limit specified below must be replaced, prior to further flight, with a brake within this limit.

Type certificated model designation	Common model designation	Maximum GTOW	Brake part No.	Maximum wear limit (inches)
L–1011–385–1	(–1)	430,000	2–1195–1	2.10
	(–1)	430,000	2–1195–5	2.10
	(–1)	430,000	2–1195–6	2.10
	(–1)	430,000	2–1195–7	2.10
	(–1)	430,000	2–1195–8	2.10
	(–1)	430,000	2–1367	3.00
	(–1)	430,000	2–1367–1	3.00
	(–1)	430,000	2–1367–2	3.00
	(–40)	440,000	2–1195–1	2.10
	(–40)	440,000	2–1195–5	2.10
	(–40)	440,000	2–1195–6	2.10
	(–40)	440,000	2–1195–7	2.10
	(–40)	440,000	2–1195–8	2.10
	(–40)	440,000	2–1367	3.00
	(–40)	440,000	2–1367–1	3.00
	(–40)	440,000	2–1367–2	3.00
	(–50)	450,000	2–1367–3	2.60
	(–50)	450,000	2–1367–4	2.60
	(–50)	450,000	2–1367–5	2.60
L–1011–385–1–14	(–100, –150, –200)	466,000	2–1367–3	2.60
	(–100, –150, –200)	to	2–1367–4	2.60
	(–100, –150, –200)	474,000	2–1367–5	2.60
	(–250)	510,000	2–1367	3.00
	(–250)	510,000	2–1367–1	3.00
	(–250)	510,000	2–1367–2	3.00
L–1011–385–1–15	(–100, –150, –200)	466,000	2–1367–3	2.60
	(–100, –150, –200)	to	2–1367–4	2.60
	(–100, –150, –200)	474,000	2–1367–5	2.60
	(–250)	510,000	2–1367	3.00
	(–250)	510,000	2–1367–1	3.00

Type certificated model designation	Common model designation	Maximum GTOW	Brake part No.	Maximum wear limit (inches)
L-1011-385-3	(-250)	510,000	2-1367-2	3.00
	(-500)	496,000	2-1367	3.00
	(-500)	to	2-1367-1	3.00
	(-500)	516,000	2-1367-2	3.00

NOTE: Lockheed Service Bulletin 093-32-253, dated March 29, 1991, contains additional information concerning Model L-1011 brake configurations.

(b) Within 180 days after the effective date of this AD, incorporate the maximum brake wear limits specified in paragraph (a) of this AD into the FAA-approved maintenance inspection program.

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

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

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

This amendment (39-8081, AD 91-23-12) becomes effective on December 9, 1991.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-26397 Filed 10-31-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-CE-33-AD; Amendment 39-8077; AD 91-23-08]

Airworthiness Directives; Mitsubishi Heavy Industries MU-2B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Mitsubishi Heavy Industries MU-2B series airplanes. This action requires a modification to the rudder trim tab leading edge. A field report revealed that the rudder trim tab could interfere with the rudder trailing edge when full right rudder and full left rudder trim tab are applied simultaneously during single-engine operation. The actions specified by this AD are intended to prevent interference between the rudder and the rudder trim tab that could result in loss of control of the airplane.

DATES: Effective December 18, 1991

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 18, 1991.

ADDRESSES: Mitsubishi Heavy Industries Service Bulletin No. 211, dated November 20, 1990, may be obtained from Mitsubishi Heavy Industries, Nagoya Aerospace Systems, 10, Oyecho, Minato-Ku, Nagoya, Japan. 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. William Roberts, Aerospace Engineer, Airframe Branch, Transport Airplane Directorate, 3229 E. Spring Street, Long Beach, California 90806-2425; Telephone (213) 988-5228.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Mitsubishi Heavy Industries MU-2B series airplanes was published in the **Federal Register** on May 15, 1991 (56 FR 22367). The action proposed a one-time modification to the rudder trim tab in accordance with the instructions in Mitsubishi Heavy Industries Service Bulletin No. 211, dated November 20, 1990.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public. After careful consideration, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for 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 proposed.

It is estimated that 122 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 8 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 $53,680.

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 this 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, 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:

91-23-08 Mitsubishi Heavy Industries: Amendment 39-8077; Docket No. 91-CE-33-AD.

Applicability: Models MU-2B-10, MU-2B-15, and MU-2B-20 airplanes (serial numbers (S/N) 008 through 211), Model MU-2B-30 airplanes (S/N 502 through 542), and Model

MU–2B–36 airplanes (S/N 501), certificated in any category.

Compliance: Required within the next 200 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent interference between the rudder and the rudder trim tab that could result in loss of control of the airplane, accomplish the following:

(a) Modify the rudder trim tab in accordance with the instructions in Mitsubishi Heavy Industries Service Bulletin No. 211, dated November 20, 1990.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane 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, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 E. Spring Street, Long Beach, California 90806–2425. The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

(d) The modification required by this AD shall be done in accordance with Mitsubishi Heavy Industries Service Bulletin No. 211, dated November 20, 1990. 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 Mitsubishi Heavy Industries, Nagoya Aerospace Systems, 10, Oyecho, Minato-Ku, Nagoya, Japan. 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 December 18, 1991.

Issued in Kansas City, Missouri, on October 21, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–26398 Filed 10–31–91; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–18379; S7–13–91]

RIN: 3235–AE16

Rescission of Temporary Rules Providing Exemptions to Certain Money Market Funds and Other Persons and Companies

AGENCY: Securities and Exchange Commission.

ACTION: Rescission of Temporary Rules.

SUMMARY: The Commission is rescinding two temporary exemptive rules under the Investment Company Act of 1940 that were adopted to enable money market funds to adjust to the issuance and termination of credit control regulations by the Board of Governors of the Federal Reserve System in 1980. These rules served their intended purposes and are no longer necessary.

EFFECTIVE DATE: November 1, 1991.

FOR FURTHER INFORMATION CONTACT: W. Thomas Conner, Attorney, or Robert E. Plaze, Assistant Director (202) 272–2107, Office of Disclosure and Adviser Regulation, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is rescinding Rule 6c–4(T) [17 CFR 270.6c–4(T)] and Rule 6c–5(T) [17 CFR 270.6c–5(T)] under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] ("1940 Act").

I. Discussion

On May 20, 1991, the Commission proposed rescinding temporary rules Rules 6c–4(T) and 6c–5(T) (the "temporary rules") under the 1940 Act.[1] The Commission did not receive any comments in response to the proposal.

The temporary rules were adopted in response to credit control regulations that were imposed by the Board of Governors of the Federal Reserve System ("Board") on March 14, 1980 and rescinded on July 28, 1980.[2] The credit control regulations generally required money market funds ("funds") to maintain special non-interest bearing deposits ("special deposits") with Federal Reserve banks with respect to new assets.[3] The temporary rules provided exemptions to funds to minimize the impact of the credit control regulations, and their subsequent rescission, on the funds' operations and shareholders.

For the reasons discussed in the Proposing Release, the exemptions provided by these rules have served their intended purposes and are no longer necessary. The credit control regulations addressed by Rule 6c–4(T) have long been rescinded and transactions requiring the exemptive relief provided by Rule 6c–5(T) must have been effected prior to November 21, 1980. Therefore, the Commission is rescinding Rule 6c–4(T) and Rule 6c–5(T).

II. Regulatory Flexibility Act Analysis

A summary of the Initial Regulatory Flexibility Analysis, which was prepared in accordance with 5 U.S.C. 603, was published in Investment Company Act Release No. 18158. No comments were received on this analysis. The Commission has prepared a Final Regulatory Flexibility Analysis, a copy of which may be obtained by contacting W. Thomas Conner, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

III. Statutory Authority

The Commission is rescinding Rules 6c–4(T) and 6c–5(T) under the exemptive and rulemaking authority set forth in sections 6(c) [15 U.S.C. 80a–6(c)] and 38(a) [15 U.S.C. 80a–37(a)] of the Investment Company Act of 1940.

List of Subjects in 17 CFR Part 270

Investment companies, Securities.

IV. Removal of Rule Text

The Commission is amending chapter II, title 17 of the Code of Federal Regulations as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for part 270 continues to read as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

§§ 270.6c–4(T) and 270.6c–5(T) [Removed]

2. By removing sections 270.6c–4(T) and 270.6c–5(T).

Dated: October 25, 1991.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26371 Filed 10–31–91; 8:45 am]

BILLING CODE 8010–01–M

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[1] Investment Company Act Rel. No. 18158 (May 20, 1991) [56 FR 23821 (May 24, 1991)] ("Proposing Release").

[2] The Board adopted credit control regulations [formerly cited as 12 CFR 229.11 *et seq.*], as implemented by Executive Order 12201 of the President of the United States. The Board issued the credit control regulations to curb the extension of credit in order to reduce inflation in the United States economy.

[3] Funds in existence at the time the controls took effect had to make special deposits only if their assets ("covered credit") increased above their base amounts (the amount of their covered credit outstanding as of the close of business on March 14, 1980).

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 228

RIN 0596-AB19

Oil and Gas Resources; Leasing Analyses in Roadless Areas

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The rules governing oil and gas resources on National Forest System lands exclude roadless areas undergoing review pursuant to 36 CFR 219.17 from consideration for oil and gas leasing. This exclusion of some roadless areas from oil and gas leasing analysis was not required by statute or any other regulation and impedes full consideration of oil and gas leasing in revision of forest plans. Therefore, the Department is amending its oil and gas resources rules to remove this exclusion. The intended effect is to enable the Forest Service to include roadless areas in oil and gas leasing analyses.

EFFECTIVE DATE: December 2, 1991.

FOR FURTHER INFORMATION CONTACT: Stanley Kurcaba, Minerals and Geology Management Staff, Forest Service, USDA, (202) 205-1239.

SUPPLEMENTARY INFORMATION: On March 21, 1990, (55 FR 10443) the Secretary of Agriculture adopted a final rule governing issuance of Federal oil and gas leases and management of oil and gas operations on National Forest System lands. Section 228.102(b) of the rule requires the Forest Service to prepare a schedule for analyzing lands under its jurisdiction that have not been previously analyzed for leasing. Section 228.102(b) excluded five land categories from further review as being "legally unavailable for leasing." The first four of these categories (228.102(b)(1)-(4)) are legally excluded from leasing by act of Congress or by action of the Secretary of the Interior. The fifth category, "roadless areas currently undergoing evaluation pursuant to 36 CFR 219.17" (228.102(b)(5)), is not legally excluded from leasing by any act of Congress or Secretary of Interior action. Accordingly, the Forest Service published a proposed rule on March 18, 1991, at 56 FR 11386 to remove this exclusion. Public comment was invited by April 17, 1991. A summary of comments received and the Department's response to them follows.

Analysis and Summary of Public Comments

In response to the proposed rule, the Forest Service received 35 letters containing 83 comments from the following sources:

Respondent type	Number of letters
Oil and Gas Industry-Related Institutes/ Associations	32
Environmentalist/Preservation Groups	1
Individuals	1
Federal Agencies	1
Total	35

Responses received are available for public review in the office of the Director, Minerals and Geology Management Staff, 4th floor Auditors Building, 14th & Independence Avenue, Washington, DC, during regular business hours (8 a.m. to 5 p.m.) Monday through Friday.

General Comments

Several topics emerged consistently throughout analysis of the comments. A significant number of respondents simply stated they were in favor of the proposed rule. Many supported the proposal because it allowed for fair evaluation of roadless areas and oil and gas resources. Others quoted the paragraph in the preamble to the proposed rule concerning the leasing analysis and its relation to forest plan revisions, suggesting that statement be deleted. Others just said excluding roadless areas from oil and gas leasing suitability review was a mistake and should be addressed as such. Two stated that oil and gas leasing decisions should not be made prior to determining the wilderness status of roadless areas.

One respondent questioned the need for the rule in the belief that it is Forest Service policy not to lease for oil and gas resources.

In response to this comment, the Department notes that the Forest Service policy as set forth in Forest Service Manual Section 2803 is:

(1) To encourage, facilitate, and administer the orderly exploration, development, and production of mineral and energy resources within the National Forest System in order to maintain a viable, healthy minerals industry and to promote self-sufficiency in those mineral and energy resources necessary for economic growth and national defense; and (2) to ensure that exploration, development, and production of mineral and energy resources are conducted in an environmentally sound manner and that these activities are integrated with the planning and management of other National Forest resources.

Specific Comments

Comment. Some comments reflect a concern that the proposed rule would alter the Forest Service's existing policy of not impairing roadless areas being evaluated for wilderness recommendations to Congress pursuant to 36 CFR 219.17.

Response. Neither statute or policy precludes entry into roadless areas during initial forest planning or revision so long as analysis and disclosure of environmental effects are made in compliance with the National Environmental Policy Act.

Comment. One respondent expressed a concern that the Forest Service was removing the roadless area exclusion simply because it was not required by law and that the proposed rule should be supported by valid policies.

Response. The current regulation states that roadless areas undergoing evaluation pursuant to 36 CFR 219.17 are excluded from the oil and gas leasing analysis because they are legally unavailable for leasing. However, as stated in the proposed rule, those lands are not legally unavailable for leasing, and it was a mistake to include such lands in the list of lands that are legally unavailable. Consequently, this proposed rule is necessary to make the Forest Service oil and gas regulations legally accurate; but moreover, the Department feels that it is good policy to allow simultaneous evaluation of oil and gas and roadless area resources.

Comment. Some respondents stated that the existing exclusion of roadless areas undergoing review pursuant to 36 CFR 219.17 is appropriate because the Forest Service should only consider the wilderness characteristics of roadless areas during the review and that concurrent consideration of the oil and gas potential of those lands would bias the Forest Service's wilderness review in favor of economic uses. These reviewers expressed the belief that a decision hierarchy should be followed pursuant to which roadless areas are considered for wilderness based solely on land characteristics, and only after areas have been designated as non-wilderness should the Forest Service make the more "complicated" decision, balancing of the costs and benefits of leasing, to determine whether those lands are available for oil and gas leasing. These same respondents expressed the belief that the proposed rule will not serve the goals of NEPA by providing full consideration and disclosure of all the environmental consequences of future management decisions for roadless areas, because the potential of lands for oil and gas leasing is irrelevant to the Forest Service's wilderness recommendations.

Response. The respondents misconstrue the decisionmaking process

required under 36 CFR 219.17 for recommending roadless areas for wilderness designation by Congress. While certain land characteristics are a prerequisite to land being recommended to Congress for designation as wilderness, not all lands having those wilderness characteristics are automatically recommended for wilderness designation. Determining which lands will be recommended by the Forest Service for wilderness designation by Congress requires a complex consideration of various interests and possible uses. The rule at 36 CFR 219.17 expressly requires the Forest Service to consider not only the values of an area as wilderness, but also "[t]he values foregone and effects on management of adjacent lands as a consequence of wilderness designation." Accordingly, the Forest Service must consider whether other values exist, including oil and gas values, in a roadless area undergoing review pursuant to 36 CFR 219.17, identify which values would be foregone if the area were Congressionally designated as wilderness, and consider the effects of wilderness designation on management of adjacent lands. Consideration of oil and gas values and potential for leasing will not bias a decision against wilderness recommendation to Congress. Merely evaluating lands for oil and gas leasing or any other resource use can create no expectation that those lands will actually be leased or used for other purposes.

Concurrently evaluating roadless areas for wilderness and other values, including potential commodity values such as oil and gas leasing is fully consistent with 36 CFR 219.17 and promotes comprehensive management of the National Forest System lands. Removal of 36 CFR 228.102(b)(5) results in ensuring that oil and gas potential in a roadless area is treated on the same basis as all other resource values in evaluation of wilderness. Therefore, this suggestion cannot be adopted.

Comment. Several reviewers took exception to a statement in the preamble to the proposed rule (last paragraph 53 FR 11386, 5th line) which read as follows:

> The Forest Service does recognize, that in making such decisions, 36 CFR 219.17 requires that roadless areas be reviewed for wilderness consideration as part of the forest plan revision process. Therefore, in situations where a leasing analysis involves a roadless area and either, (1) Ongoing leasing analysis is not completed prior to initiation of the forest plan revision or (2) a leasing analysis becomes necessary during a forest plan revision, the leasing analysis will become a part of the forest plan revision process.

Some respondents noted that many forests announce plans to review forest plans and initiate a forest plan revision long before the actual revision process begins and years before it is completed. In such cases, where a leasing analysis is ongoing and not completed before the revision process begins, these respondents were concerned that the leasing analysis would have to wait until the plan revision process is complete. Others were concerned that initiating the revision process could be viewed as an easy way to postpone leasing and that leasing schedules would be delayed.

Response. The Department understands how this statement might be misinterpreted and thus delay completion of leasing analyses. However, the authorized forest officer has the discretion to continue a leasing analysis as scheduled or to include it with the forest plan revision. It is expected that an authorized forest officer would choose the option that would best expedite the analysis. The Forest Service anticipates that the majority of the scheduled leasing analyses will be completed prior to notice of beginning a plan revision. Where leasing analyses are distinct from forest plan revision, leasing decisions—including those involving roadless areas—must be consistent with the forest land and resource management plan in effect at the time such a decision is made. If leasing is not consistent or cannot be made consistent with the forest plan, then the authorized forest officer must either deny leasing or amend or revise the plan to accommodate the leasing decision.

Comment. One reviewer proposed that § 228.102(b)(5) not be eliminated unless its removal is contingent upon, and further clarification is made in the rule that (1) analysis pursuant to 36 CFR 228.102(c) may result in impairment of the suitability of these lands for designation as wilderness; and (2) once the oil and gas analysis is complete, roadless areas being evaluated under 36 CFR 219.17 will not be available for oil and gas leasing or other oil and gas operations until and unless the Forest Service makes a final decision that the area not be designated as wilderness.

Response. As stated previously, once a forest plan is approved, those roadless areas not recommended for wilderness will be managed in accordance with the direction in the specific plan for that area. Once a plan revision is initiated, the Forest Service will again evaluate areas remaining roadless for their wilderness potential. However, during the revision process such areas will be managed consistent with the forest plan in effect. Management in accordance with forest plans is, of course, subject to compliance with applicable environmental laws, including NEPA. Furthermore, release language in several Wilderness Acts. i.e., the Wyoming Wilderness Act of 1984, Public Law 98–550, states: National forest areas not designated wilderness or wilderness study by this Act are released for multiple-use management and need not be managed to protect their suitability for wilderness designation prior to or during revision of the initial land management plan. Therefore, this suggestion is not adopted.

Comment. One reviewer stated that an environmental impact statement is required for these regulations if they allow a roadless area to be analyzed for oil and gas leasing prior to roadless area evaluation.

Response. The Forest Service will not schedule leasing analyses involving roadless areas that have not been evaluated for wilderness consideration. Moreover, this amendment to the rules in and of itself, has no environmental effects. National Environmental Policy Act analysis is conducted prior to any leasing decisions as part of the wilderness evaluation process as well as at the site-specific project level. Therefore, an environmental impact statement for these regulations is not necessary.

Conclusion

For the reasons noted in the preamble, the Department has concluded that the oil and gas leasing rule adopted March 21, 1990, should not have made roadless areas currently undergoing evaluation pursuant to 36 CFR 219.17 legally unavailable for leasing.

In promulgating the oil and gas rule, the Department did not intend to make such areas unavailable for leasing analysis. Moreover, the Department concludes that there is no valid management reason to automatically exclude roadless areas which are undergoing evaluation pursuant to 36 CFR 219.17 from concurrent oil and gas leasing analysis and that the Forest Service should consider oil and gas potential as part of the total analysis performed in making roadless area determinations in forest land and resource management planning or forest plan revisions pursuant to 36 CFR 219.17.

This final rule, in and of itself, would not open roadless areas to oil and gas leasing. It merely removes the automatic

exclusion of lands undergoing evaluation pursuant to 36 CFR 219.17 from consideration of oil and gas potential. Adoption of this rule allows oil and gas leasing analyses under 36 CFR 228.102 while the forest plan development or revision process is ongoing.

Therefore, having considered the comments received, the Department is amending the oil and gas resource rules to remove paragraph (b)(5) from § 228.102.

Regulatory Impact

This rule has been reviewed under Executive Order 12291 and Department of Agriculture procedures, and it has been determined that this regulation would not be a major rule. This rule would not have an effect on the economy of $100 million or more and, in and of itself, would not increase major costs to consumers, geographic regions, industry, or Federal, State, and local agencies. This rule would be procedural and would represent no change in current requirements on lessees, assignees, or operators. Therefore, it would not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete in foreign markets.

For the purposes of examining regulatory impacts, it should be emphasized that this rule affects only the timing and scheduling of oil and gas leasing analyses and, therefore, has no adverse economic effect. This rule promotes efficient oil and gas leasing analyses. Consequently, this rule would certainly be beneficial to the general public, Federal Government, and the affected industry, but there is no way of estimating the economic benefit which would result from this procedural rule change.

It has also been determined that this rule does not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because of its limited scope and application.

Controlling Paperwork Burdens on the Public

This rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Therefore, the rule imposes no paperwork burden on the public.

Environmental Impact

This proposed rule merely allows roadless areas undergoing evaluation pursuant to 36 CFR 219.17 to simultaneously be studied under § 228.102 of the final oil and gas resources rule. When a roadless area is included in a leasing area analysis, § 228.102 requires such analysis be conducted in compliance with the National Environmental Policy Act and its implementing regulations. This rule does not alter that requirement. As such, the rule is strictly procedural and has no impact on the quality of the human environment, individually or cumulatively. Based on experience and environmental analysis, this proposed rule will have no significant effect on the human environment, individually or cumulatively.

List of Subjects in 36 CFR Part 228

Administrative practice and procedure, Environmental protection, Mines, National forests, Oil and gas exploration, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

Therefore, for the reasons set forth in the preamble, subpart E of part 228 of chapter II of title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 228—MINERALS

1. The authority for part 228 would continue to read as follows:

Authority: 30 Stat. 35 and 36, as amended (16 U.S.C. 478, 551); 41 Stat. 437, as amended, sec. 5102(d), 101 Stat. 1330–256 (30 U.S.C. 226); 61 Stat. 914, as amended (30 U.S.C. 352); and 94 Stat. 2400.

Subpart E—Oil and Gas Resources

§ 228.102 [Amended]

2. Amend § 228.102 by removing paragraph (b)(5) and adding the word "and" at the end of paragraph (b)(3), removing "; and," and in lieu thereof, adding a period at the end of paragraph (b)(4).

Dated: October 17, 1991.

James R. Moseley,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 91–26349 Filed 10–31–91; 8:45 am]

BILLING CODE 3410–11–M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 307

Cost of Living Adjustment of the Mechanical Royalty Rate

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal announces an adjustment of the mechanical royalty rate based on the change in the Consumer Price Index from September, 1989 to September, 1991. The rate is increased to either 6.25 cents, or 1.2 cents per minute of playing time or fraction thereof, whichever amount is larger.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue, NW., Suite 918, Washington, DC 20009 (202) 606–4400.

SUPPLEMENTARY INFORMATION: In 1987, the Copyright Royalty Tribunal adopted the joint proposal submitted by the National Music Publishers' Association, The Songwriters Guild of America and the Recording Industry Association of America, Inc. to make adjustments every two years to the mechanical royalty rate based upon changes in the Consumer Price Index (CPI), except when the CPI declined, in which case the mechanical rate could go no lower than the rates in effect in 1986–1987, and except when the CPI increased by more than 25%. in which case the rate increase would be no greater than 25%, 1987 Adjustment of the Mechanical Royalty Rate, 52 FR 22637 (June 15, 1987, as corrected, 52 FR 23546 (June 23, 1987).

Accordingly, it is announced that the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) is 9.76% (September, 1989's Index was 125.0 and September, 1991's Index was 137.2, with 1982–1984=100). The current mechanical rate is 5.7 cents, or 1.1 cents per minute of playing time or fraction thereof, whichever amount is larger. Adjusting that rate upward by 9.76% and rounding off the results to the nearest 1/20th of a cent, the new rate, effective January 1, 1992, shall be 6.25 cents, or 1.2 cents per minute of playing time or fraction thereof, whichever amount is larger. Section 307.3 is revised as shown below.

List of Subjects in 37 CFR Part 307

Copyright, Music, Recordings.

For the reasons set forth in the preamble, the Tribunal amends 37 CFR part 307 as follows:

PART 307—[AMENDED]

1. The authority citation for Part 307 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1) and 804.

2. Section 307.3 is revised to read as follows:

§ 307.3 Adjustment of royalty rate.

(a) For every phonorecord made and distributed on or after January 1, 1983, the royalty payable with respect to each work embodied in the phonorecord shall be either 4.25 cents, or .8 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (b), (c), (d), (e), (f) and (g) of this section.

(b) For every phonorecord made and distributed on or after July 1, 1984, the royalty payable with respect to each work embodied in the phonorecord shall be either 4.5 cents, or .85 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (c), (d), (e), (f) and (g) of this section.

(c) For every phonorecord made and distributed on or after January 1, 1986, the royalty payable with respect to each work embodied in the phonorecord shall be either 5 cents, or .95 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (d), (e), (f) and (g) of this section.

(d) For every phonorecord made and distributed on or after January 1, 1988, the royalty payable with respect to each work embodied in the phonorecord shall be either 5.25 cents, or 1 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (e), (f) and (g) of this section.

(e) For every phonorecord made and distributed on or after January 1, 1990, the royalty payable with respect to each work embodied in the phonorecord shall be either 5.7 cents, or 1.1 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (f) and (g) of this section.

(f) For every phonorecord made and distributed on or after January 1, 1992, the royalty payable with respect to each work embodied in the phonorecord shall be either 6.25 cents, or 1.2 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraph (g) of this section.

(g)(1) On November 1, 1993, and November 1, 1995 the Copyright Royalty Tribunal (CRT) shall publish in the **Federal Register** a notice of the percent change in the Consumer Price Index (all urban consumers, all items) (CPI) from the Index published for the September two years earlier to the Index published for the September of the year in which such notice is published, and the underlying calculations.

(2) On the same date as the notice is published pursuant to paragraph (g)(1) of this section, the CRT shall publish in the **Federal Register** revised compulsory license royalty rates which shall adjust the amounts then in effect in direct proportion to the percent change in the CPI determined as provided in paragraph (g)(1) of this section, rounded to the nearest 1/20th of a cent; *Provided, however,* That:

(i) The adjusted rates shall be no greater than 25% more than the rates then in effect; and

(ii) The adjusted rates shall be no less than the amounts set forth in § 307.3(c).

(3) The revised royalty rates for the compulsory license adjusted pursuant to this paragraph (g) shall become effective for every phonorecord made and distributed on or after January 1 of the year following that in which such notice is published; that is, on January 1, 1994 and 1996, respectively.

Dated: October 28, 1991.

Mario F. Aguero,

Chairman.

[FR Doc. 91–26339 Filed 10–30–91; 8:45 am]

BILLING CODE 1410–09–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA–21–5182; FRL–4014–4]

Approval and Promulgation of Air Quality Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Iowa. This revision approves Orders and permits issued by the state to certain SO_2 sources in Clinton, Iowa. The effect of the Orders and revised permits will be to reduce the emissions of SO_2 in Clinton, Iowa, to the level that will ensure attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for SO_2.

EFFECTIVE DATE: This rule will become effective on December 2, 1991.

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

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

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1991, the Iowa Department of Natural Resources submitted a SIP revision for major sulfur dioxide (SO_2) sources in Clinton, Iowa. The SIP revision consists of Administrative Orders and revised permits for the Archer Daniels Midland (ADM) wet corn milling facility and the Interstate Power (IP) M.L. Kapp electric utility steam generating facility.

On July 1, 1991, EPA proposed in the **Federal Register** (56 FR 29918) to approve these Orders and permits in the Iowa SIP. The proposal contains a detailed discussion of the basis for EPA's approval. In today's notice EPA is taking final action on the proposal. This action will make the Orders and permits federally enforceable and thus strengthen the Iowa SIP in Clinton County, Iowa.

Response to Comments

Comments were received from seven citizens, all of whom reside in the Clinton, Iowa, area. The majority of the comments dealt with compliance by ADM with the conditions of the state-issued Administrative Orders. A few of the commenters expressed doubt that the construction of a new stack by ADM would solve any problems. The new stack height was determined after exhaustive fluid and dispersion modeling analysis performed in accordance with EPA guidelines. The fluid modeling was used to demonstrate that excess concentrations of SO_2 emissions were caused by downwash conditions. A new stack height was determined by using good engineering practice (GEP) stack height formula. The GEP stack height is that height necessary to prevent excessive downwash concentrations. This GEP stack height was then used in the dispersion modeling analysis. The dispersion modeling formed the basis for the emission limits established for ADM.

Final Action

EPA is approving a revision to the Iowa SIP which provides for attainment and maintenance of the SO_2 NAAQS in Clinton County, Iowa.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 31, 1991. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

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

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

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 9809).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: September 16, 1991.

Morris Kay,

Regional Administrator.

PART 52—[AMENDED]

40 CFR part 52, is amended as follows:

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

Authority: 42 U.S.C. 7401–7642

Subpart Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(54) to read as follows:

§ 52.820 Indentification of plan.

* * * * *

(c) * * *

(54) On March 13, 1991, the Iowa Department of Natural Resources (IDNR) submitted a plan revision pertaining to major SO_2 sources in Clinton County, Iowa.

(i) *Incorporation by reference.* (A) Administrative Consent Order #90–AQ–10, signed by Larry Wilson, Director, IDNR, dated July 5, 1990, and revision dated March 25, 1991. Also, three letters to Archer-Daniels-Midland (ADM) Company dated June 20, 1990, signed by Michael Hayward, IDNR, which contain or reference new or revised permit conditions for ADM sources, and a letter to ADM from IDNR dated February 26, 1991, correcting certain permit provisions.

(B) Administrative Consent Order #89–AQ–04, signed by Larry Wilson, Director, IDNR, dated February 21, 1990. Also, two letters to Interstate Power Company dated January 25 and 29, 1990, and signed by Michael Hayward, IDNR, which contain supplemental permit conditions for permits 74–A–117–S and 78–A–157–S.

(ii) *Additional material.* (A) Letter and supplemental material from Larry J. Wilson to Morris Kay dated March 13, 1991.

[FR Doc. 91–26376 Filed 10–31–91; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[VA–3–1–5300; FRL–4024–5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revised Sulfur Dioxide Emissions Limitation for Aqualon Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Virginia. This revision requires a reduction of allowable sulfur dioxide (SO_2) emissions from the Aqualon Company (Aqualon), located in Hopewell. The intended effect of this action is to approve the reduction in allowable SO_2 emissions from Aqualon in order to provide an ambient air quality offset to allow construction of a new major source. This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective December 31, 1991 unless notice is received on or before December 2, 1991 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Virginia Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia, 23240.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 597–1325; FTS 597–1325.

SUPPLEMENTARY INFORMATION: On March 26, 1991, the Commonwealth of Virginia submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of an Agreement entered into between the State Air Pollution Control Board (SAPCB) of the Commonwealth of Virginia and Aqualon Company (Source Registration No. 50363—formerly named Hercules, Inc.) concerning Aqualon's chemical manufacturing facility located in Hopewell, Virginia. By this agreement, the Aqualon Company must reduce the amount of allowable sulfur dioxide (SO_2) emissions from its Boiler Number 5 at the Hopewell facility, effective October 1, 1991.

Summary of SIP Revision

The currently allowable SO_2 emissions from the boiler are limited to 2.37 lb/mmbtu, 10,240 pounds per day (lb/day) and 1,212 tons per year. The Agreement reduces the allowable SO_2 emissions from Boiler Number 5 to 9,389 lb/day and 1,111 tons/year, effective October 1, 1991. The Agreement further requires that the oil combusted in Boiler Number 5 will not exceed a maximum sulfur content of 2.17% sulfur content by weight and a maximum daily volume of 22,775 gallons. Further, the Agreement requires that the maximum sulfur content of the oil shall not exceed 2.1% sulfur content by weight, by shipment. The Agreement requires Aqualon to maintain records of all oil shipments purchased (including the sulfur-in-fuel content per shipment) and the volume of oil burned in Boiler Number 5. The records shall be made available on site and shall be kept on file for the most current three-year period.

The State's action was precipitated by an air quality modelling analysis performed by the Virginia Department of

Air Pollution Control in conjunction with a Prevention of Significant Deterioration (PSD) permit application for the Hadson 13-Hopewell cogeneration facility. The modelling analysis, which was based on allowable emissions, indicated that the national ambient 24-hour SO_2 standard (365 $\mu g/m^3$, not to be exceeded more than once per year) was exceeded at various receptors in the modelling grid. Aqualon Company's Boiler Number 5 was determined to be a significant contributor, but not the sole one, to these modelled violations. In concert with the effort to allow construction of the Hadson 13-Hopewell facility, Aqualon Co. voluntarily agreed to enter into an enforceable agreement with Virginia to reduce its allowable SO_2 emissions.

EPA Evaluation

EPA evaluated Virginia's SIP revision request and concluded the following: (1) The revised emission limitations for Aqualon produce an ambient air quality impact offset such that the Hadson 13-Hopewell cogeneration facility, when modelled in conjunction with the emissions offset produced by Aqualon, no longer has a significant impact where the 24-hour SO_2 NAAQS is exceeded; (2) the revised emission limitations are clearly enforceable; and (3) all of the applicable requirements of 40 CFR part 51 are met. A more detailed evaluation is provided in a Technical Support Document available upon request from the Regional EPA office listed in the ADDRESSES section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on December 31, 1991.

Final Action

EPA is approving as a revision to the Virginia SIP the Agreement reducing allowable SO_2 emissions between the State Air Pollution Control Board of the Commonwealth of Virginia and the Aqualon Company (Source Registration No. 50363), dated September 24, 1990 and September 26, 1990.

The Agency has reviewed this request for revision of the Federally-approved State Implementation Plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

This action approving the consent agreement between the Virginia SAPCB and Aqualon Company to reduce the allowable SO_2 emissions has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

Under section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 31, 1991. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

Nitrogen dioxide, Ozone, Particulate matter, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: October 11, 1991.

Edwin B. Erickson,

Regional Administrator, Region III.

Subpart VV, part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

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

Authority: 42 U.S.C. 7401–7642

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(93) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(93) Revisions to the State Implementation Plan submitted by the Virginia Department of Air Pollution Control on March 26, 1991.

(i) Incorporation by reference.

(A) Letter from the Virginia Department of Air Pollution Control dated March 26, 1991 submitting a revision to the Virginia State Implementation Plan.

(B) Agreement between the State Air Pollution Control Board of the Commonwealth of Virginia and the Aqualon Company (Source Registration No. 50363) reducing allowable emissions of sulfur dioxide, dated September 24, 1990 and September 26, 1990.

(ii) Additional materials.

(A) Remainder of the State Implementation Plan revision request submitted by the Virginia Department of Air Pollution Control on March 26, 1991.

[FR Doc. 91–26378 Filed 10–31–91; 8:45]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 64 and 68

[CC Docket No. 91–65; FCC 91–299]

Interstate 900 Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission initiated this proceeding in Policies and Rules Concerning Interstate 900 Telecommunications Services, CC Docket No. 91–65, Notice of Proposed Rulemaking, 56 FR 14049 (April 5, 1991). The Commission is adopting rules concerning interstate pay-per-call, including 900 services. This action is taken in response to citizen complaints about abuses in the interstate 900 services. The intended effect of the action is to provide consumers with the information they need in order to make informed choices about interstate pay-per-call services and to provide them with more effective redress in the event abuses do occur.

EFFECTIVE DATE: December 2, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas G. David, Enforcement Division, Common Carrier Bureau, (202) 632–4887.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket No. 91–65 (FCC 91–299), adopted September 26, 1991, and released October 23, 1991. The full text of the Report and Order 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 duplicating contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452–1422.

SUMMARY OF REPORT AND ORDER

I. Background

1. On March 14, 1991, the Commission proposed rules regarding interstate 900 services, Policies and Rules Concerning Interstate 900 Telecommunications Services, CC Docket No. 91–65, Notice of Proposed Rulemaking, 6 FCC Rcd 1857, 56 FR 14049 (April 5, 1991) (hereinafter NPRM). On September 26, 1991, the Commission adopted a Report and Order to address issues in the interstate pay-per-call industry, including services offered over 900 exchanges. The Report and Order, summarized here, amends part 64 of the Commission's rules by adopting provisions that set minimum requirements for the terms and conditions under which interexchange carriers (IXCs) and local exchange carriers (LECs) can provide transmission services for pay-per-call services. The Report and Order also amends part 68 of the Commission's rules to add a rule to regulate line seizing by automated dialers which deliver a recorded message.

II. Discussion

A. Definition of Pay-per-call

2. Section 64.709 is added to implement the Commission's decision to apply the rules adopted in the Report and Order to all interstate pay-per-call services, not just those offered over the 900 exchange. It defines pay-per-call services to include telecommunications services which permit a large number of callers to access a single telephone number and for which the calling party is assessed, by virtue of completing the call, a charge that is greater than, or in addition to, the charge for the transmission of the call. It does not apply to charges that are made pursuant to a presubscription arrangement between the caller and the information provider.

B. Limitations on the Provision of Pay-Per-Call Services

3. Section 64.710 requires that common carriers provide interstate pay-per-call transmission services only under the terms and conditions required by §§ 64.711 through 64.716. This requirement applies regardless of whether the services are provided under contract or tariff.

C. Preamble

4. Section 64.711 provides that all pay-per-call programs must begin with an introductory disclosure message which effectively notifies the caller of the cost of the call and provides a brief description of what the caller will receive. The rule prohibits any billing of charges to a caller until the preamble ends and requires that the caller have the opportunity to hang-up without incurring any charges. The preamble must be clearly understandable and audible and state the name of the information provider. Also, repeat callers may bypass the preamble, at their option, except when the price for the call has recently increased.

5. In reference to § 64.711(a), the Commission considered exceptions to the preamble requirement for polling, non-verbal, nominally priced and asynchronous programs. Most commenters favor excepting either polling or nominally priced programs, or both. Commenters' suggestions for a threshold for "nominally priced" programs range from $.50 to $10.00 per call for flat-rate calls and from no threshold to $5.00 per minute for usage sensitive calls. Section 64.711(a) allows an exception to the preamble requirement only when the charge to the caller is less than $2.00 for a flat-rate call. The rule does not permit an exception to the preamble requirement for usage sensitive services.

6. Many comments on § 64.711(a) focus on the requirement that the preamble disclose "average costs" of usage sensitive calls. Disclosure of all the charges for a pay-per-call program is in the public interest because it is the fundamental mechanism for providing consumers with the information they need to make an informed choice about a pay-per-call service, which may be costly. The Commission concludes that, for programs of determinable length, a more meaningful disclosure would be the total price necessary to obtain the full message. The benefits to consumers will outweigh the minimal difficulties that some information providers may have in implementing this disclosure requirement. Therefore, § 64.711(a) of the rules is changed to state that preambles must disclose the total price of the call if there is a determinable length for the program. For programs without a determinable length, however, such as interactive or asynchronous programs, § 64.711(a) of the rules does not require disclosure of either total or average costs.

7. In commenting on § 64.711(b), the Federal Trade Commission (FTC) cautions against requiring too detailed a disclosure of program content in the preamble and notes that a case-by-case review of programs may have certain advantages over an industry-wide rule. The FTC recommends that this provision be interpreted to require disclosure of only a brief description of the program content. Information providers that provide false or misleading information to consumers in advertising, preambles or information programs would be subject to investigation by the relevant regulatory authorities, including the FTC. Therefore, § 64.711(b) of the rules requires only a general description such as "sports scores" or "stocks quotes" rather than a detailed description of all possible information, products or services that the consumer could receive by calling a particular number.

8. Finally, § 64.711(b) also requires that the preamble include the name of the information provider. This will provide important additional information to the consumer with little or no additional burden on the IXCs or information providers.

9. With regard to § 64.711(c), while recognizing that the rule may create some initial difficulties for certain carriers, the Commission finds that carriers should not be allowed to bill callers for the preamble portion of a pay-per-call service. The Commission finds the requirement to be consistent with consumer expectations and essential to prevent abusive use of the preamble requirement. Many commenters note that the proposed rule does not require any minimum period of time between the end of the verbal preamble warning and the beginning of billing. The Commission agrees with the commenters that callers must have a reasonable opportunity to disconnect before billing begins and modifies proposed § 64.711(c) of the rules to provide that the program "must provide a reasonable opportunity for the caller to disconnect" before the signal tone or other identified event that indicates that billing will commence.

10. With regard to proposed rule § 64.711(d), the record shows that calls by children to 900 programs are a common cause of complaints by consumers. However, commenters

contend that the "aimed at or likely to be of interest to" standard proposed in the NPRM is very broad. Many commenters also argue that the age standard is too high and should be reduced; twelve or younger was the most commonly suggested standard. Government agencies and consumer groups express contrary views on both these issues, arguing that the proposed standard should be retained or strengthened.

11. The Commission must strike a balance between adverse effects on the industry and achieving adequate protection for children and their parents. Therefore, the Commission enacts § 64.711(d) of the rules essentially as proposed; each pay-per-call program "aimed at or likely to be of interest to children under the age of eighteen" must state that the caller should hang up unless he or she has parental permission.

12. Comments responding to proposed rule § 64.711(e) were divided; commenters predominantly support the concept of a bypass mechanism for the preamble although a significant minority oppose it. Most of the comments on this issue center on the question of how the bypass mechanism would be disabled whenever the price of a program increased. Many commenters state that the rule proposed in the NPRM is not practical because it is not possible for many programs to determine whether a particular call is an individual's first call after a price increase. In response to the comments about the difficulty of applying the proposed standard, the Commission adopts the proposed bypass rule but modifies it as commenters suggest: the bypass mechanism must be disabled for thirty days after a program increases its price. However, any instructions on how to use the bypass mechanism must be at the end of the preamble or the end of the program.

D. Identity of Information Provider

13. The comments heavily favor proposed rule § 64.712. Some commenters suggest changes in the rule; that the IXC be allowed to provide the name of the service bureau rather than the information provider or that only written requests would be honored. Other commenters, however, strongly support this proposed rule and agree that the focus should be on "whatever party is legally responsible"—to consumers and regulators—for the content of the 900 service and the fulfillment of any commitments made by the program.

14. Section 64.712, as adopted, requires the IXCs to provide identifying information about information providers upon verbal or written request. The burdens on the industry are very minor in comparison to the benefit to consumers. The Commission rejects the suggestion that it allow the IXCs to provide consumers with identifying information only about service bureaus or entities other than the information providers. The existing structure of the industry has afforded "a built-in shield between the unscrupulous marketers and the public." Therefore, it is important to allow individual consumers, consumer groups, and law enforcement agencies to identify information providers. This ruling does not prevent the IXC from providing additional information, such as the name and telephone number of a service bureau that is answering customer inquiries for the information provider. However, IXCs must, upon request, provide identifying information about information providers to consumers or other entities, including state or federal agencies, that request the information.

15. Several government commenters argue that the Commission should require that the information be provided free, and in a timely manner. Therefore, the Commission orders that the information specified in § 64.712 be provided at no charge to the requester, and that it be provided in a reasonable time, not exceeding three days. It is the Commission's expectation that this information shall, in all but exceptional cases, be provided with no delay.

E. Regulation of Blocking

16. Section 64.713, as adopted, requires that LECs, as part of their interstate access service, offer free blocking of interstate 900 services, where technically feasible, to all residential subscribers who request it. This free blocking is required on a one-time basis. The states are free to set reasonable, one-time, fees for subsequent blocking or unblocking requests by residential subscribers or for any blocking requests by commercial subscribers but may not charge monthly fees for such blocking. The LECs are not required to provide blocking for interstate pay-per-call services on exchanges other than 900. Finally, requests to remove 900 service blocking must be in writing.

17. The comments are overwhelmingly in favor of the proposal to require LECs to block interstate 900 services upon the subscriber's request. There is significant comment, however, about what the phrase "technically feasible" means and how it should be applied. Section 64.713 will impose an obligation on LECs to provide subscribers, both residential and commercial, with the option to request blocking of 900 services where the existing switch will accommodate it. The Commission is not requiring that LECs accelerate their purchases of new equipment. Rather, the LEC must, when existing equipment is capable of providing blocking for 900 services, provide blocking. Also, in light of the technical difficulties which LECs would encounter in blocking non-900 pay-per-call services, the LECs are only required to provide blocking for pay-per-call services on the 900 exchange.

18. The comments regarding proposed rule § 64.713 generally favor free blocking for residential subscribers during an initial introductory period and when they first obtain service. There were many favorable comments on also making free blocking available when a subscriber first disputes or questions a 900 services charge, but this proposed requirement also stimulated the most negative comments. The Commission is persuaded that each residential subscriber should be offered one opportunity to block 900 services upon request and at no charge. The LEC should, however, be able to charge residential subscribers a reasonable one-time fee for each subsequent request to unblock or re-block after he or she has been given one free block. Residential subscribers obtaining service at a new location, however, should be able to have free blocking of 900 services, even if they have previously exercised their one free option to block those services elsewhere.

19. The Wisconsin Public Service Commission states that it has been their experience that minor children or other persons may impersonate the subscriber and request that a block be moved. In response to these comments, the Commission modifies § 64.713 to provide that requests to remove 900 blocking must be in writing.

20. The NPRM also requested comment on whether blocking should be available at no charge to commercial, as well as residential subscribers. Comments are mixed on this issue. Generally, LECs advocate that commercial subscribers be charged for blocking. A blocking fee will encourage businesses that have customer premises equipment capable of blocking 900 services to use that capability and avoid imposing costs on the LECs. The Commission is persuaded that LECs should be able to recover some of the costs of blocking by imposing reasonable one-time charges on commercial subscribers. Therefore, § 64.713, as proposed, is modified to

require the offering of one-time free blocking to residential, but not commercial, subscribers.

21. Comments about technical problems associated with blocking center primarily around whether the LECs should be required to offer individual subscribers the capability of blocking 900 services on a number-specific, program-by-program basis. The Commission is persuaded that the practical difficulties and economic burden of blocking 900 services information programs on a number-specific, program-by-program basis outweigh any benefit that this capability would offer to consumers. Therefore, § 64.713 will not be modified to require LECs to offer number-specific blocking of 900 services at this time.

22. Commenters suggest a variety of approaches for recovering the costs of the "free" blocking required under § 64.713. The Commission will not alter the manner in which the LECs recover the costs incurred in blocking 900 services at this time. The record indicates that where blocking is available, LECs recover those costs from IXCs, or from subscribers who do pay a blocking fee, or from ratepayers generally. Accordingly, certain costs incurred in providing the one-time free (to the residential subscriber) blocking required herein will be recovered through state-mandated procedures. The Commission declines to require that blocking costs be recovered solely through an interstate access tariff charge, as there is no evidence that the costs of blocking are significant and many states have ordered or allowed one-time free blocking. Thus, efforts to alter the cost recovery of this service would disrupt existing state procedures that, based on this record, apparently work satisfactorily.

23. An issue which may commenters raise with regard to § 64.713 is whether carriers and information providers should be allowed to block subscribers, without their consent, from receiving pay-per-call services because of their previous failure to pay for those services. Certain commenters argue that involuntary blocking 900 services should be available if the subscriber repeatedly makes 900 telephone calls and refuses to pay for them. The Commission is not taking any action at the federal level regarding such involuntary blocking at this time. Some states have procedures in place to place involuntary blocks on consumers who fail to pay for such services. No case has been made that these state statutes or regulations undercut any federal policy.

F. Disconnection Restrictions

24. Most commenters support the prohibition on disconnection of basic communications services that proposed § 64.714 would impose when there is a dispute over the payment of pay-per-call charges. Some negative comments argue that this rule would require changes in LEC billing systems before the rule could be implemented. Restrictions on disconnection for failure to pay for 900 services are already required by the Commission for AT&T and have been imposed by many states. Section 64.714, as adopted, imposes a uniform national prohibiting cut-offs of basic exchange and interexchange service for failure to pay interstate pay-per-call service charges. The Commission determines that access to basic telecommunications services should not be jeopardized by non-payment of charges that are unrelated to transmission services. Basic communications services include both local exchange and interexchange services.

G. Other Practices

1. Terms and Conditions Regarding Quality

25. With respect to claims that information providers deliberately provided poor quality services to increase their revenues, the commenters provide little evidence about such practices, although they frequently comment that such practices are reprehensible and should be prohibited. Because there is no significant record indicating that poor quality programs are other than sporadic, the Commission will not adopt a separate, specific rule on quality for pay-per-call services. However, § 64.711(a) is modified to require that the preambles must be "clearly understandable and audible." Quality problems that affect the content of or charges for the program may be dealt with by the FTC or state agencies with jurisdiction over deceptive practices.

2. Automated Collect Calls

26. There was some evidence that the consumers were assessed pay-per-call charges for automated collect calls. In one instance, thousands of consumers were telephoned and, unless they rejected the call, were charged. The comments are largely in support of imposing restrictions on this practice. Section 64.715, as adopted, prohibits common carriers from providing transmission services for pay-per-call programs which initiate calls to consumers unless the party who is called has to take action that clearly indicates a desire to accept the charges for the collect pay-per-call service.

3. Line Seizing

27. Section 68.318(c) is adopted in response to comments regarding line seizure by automated dialing devices. The NPRM states that several manufacturers of autodialers claim that newer equipment disconnects immediately upon receiving a disconnect signal from the called party. The comments are divided on the issue of whether line seizing is a problem. One commenter argues that autodialers are used for many purposes other than soliciting for 900 services and that this issue should be considered in a separate proceeding because it is not primarily related to 900 services. It is also argued that the line seizure problem is confined to one type of autodialer technology, equipment that uses recorded messages in telemarketing solicitations. Various states have already enacted restrictions of their own. Section 68.318(c) of the rules, as adopted, requires prompt disconnection after the called party hangs up. However, it does not require disconnection within a set amount of time because the ability of the network to disconnect calls differs according to the type of equipment. The Commission is not requiring network upgrades to ensure compliance with this rule. Rather, autodialers which deliver a recorded message must use current capabilities to disconnect as promptly as is possible.

4. Dispute Resolution

28. The Commission considered, but declined to mandate, specific dispute resolution procedures. Industry commenters generally argue that their existing policies are adequate and that Commission action is not necessary. Government and consumer commenters generally advocate the adoption of specific refund requirements or complaint handling procedures. State policies or rules concerning dispute resolution are not preempted in this order. Moreover, in light of the other actions the Commission has taken to inform and protect consumers, the adoption of detailed federal dispute resolution procedures is unnecessary at the present time. The prohibition on disconnection of basic communications service will require information providers or carriers to pursue the collection of disputed 900 service charges, to the extent that they choose to do so, as private commercial disputes for which rules already exist. To the extent that state procedures do not thwart or impede the federal policies

adopted herein, parties will also have those means to resolve pay-per-call services disputes.

5. Dual-Tone, Multi-Frequency Tones

29. Section 64.716, as adopted, prohibits carriers from providing transmission service to any pay-per-call program that employs tones generated in advertising to complete a call to the pay-per-call program. There is no record that this is a current practice, but the commenters almost universally state that there is no justification for it and that a ban would not harm legitimate businesses. The Commission finds that this practice has significant potential, if unchecked, to harm consumers, especially children too young to understand the concept that placing a call can involve a charge.

H. Scope

30. Section 64.709 was added to define the scope of these rules. The comments overwhelmingly support the position that the rules should apply to all interstate pay-per-call services, regardless of which exchange they are offered on. Some commenters object to the extension of jurisdiction over specific exchanges, such as 976, on the ground that interstate traffic is blocked from reaching those numbers. The IXCs are concerned about the implications for other, non-pay-per-call, services that they offer on 700 or other exchanges. The LECs also express concern about the difficulty that they would have in blocking or applying the disconnection rules to pay-per-call services offered over 700 or some other exchange.

31. These proposed rules, except for § 64.713, are modified to apply to all interstate pay-per-call services, including all interstate information services offered on a transactional basis, except as otherwise noted therein. Calls will be considered "complet[ed]" when charges are assessed, not when the entire information program has been provided. Presubscribed services, such as legal research services or other databases, are not required to comply with these rules because the consumer had an adequate opportunity to obtain information about the costs and benefits of the service at the time of presubscription. Collect information calls, to the extent they are permitted by these rules, are included in the definition of "pay-per-call" services. When a consumer takes affirmative action clearly indicating that it accepts the charges for such a collect call, the consumer's action changes him or her from the called party to the calling party for the purposes of this rule. Section 64.713, as adopted, continues to require that the LECs are only responsible for blocking interstate 900 calls because the LECs would encounter serious difficulties in blocking pay-per-call services on other exchanges. The fact that the rules are only applicable to interstate services should eliminate concerns about 976, 540 and other local services to the extent that they either do not carry pay-per-call services or do not allow interstate traffic to access them. Further, because the rules are limited to pay-per-call services, business services not offered on a pay-per-call basis will not be required to have a preamble. In adopting the modified rule, the Commission is eliminating the opportunity for pay-per-call services to avoid regulation by moving to other exchanges. The 900 exchange has all the attributes necessary for the provision of information services to the public, and the record shows no valid technical or legal reason why the public would better served by allowing interstate pay-per-call services to be free of regulation simply because they are on an exchange other than 900.

I. State Regulation of 900 Services

32. The record in this proceeding demonstrates that there is both interstate and intrastate 900 services traffic. The record further shows that the switches of the LECs are not capable of differentiating between interstate and intrastate 900 traffic. State legislatures and public utilities commissions have taken many actions designed to protect their citizens against abusive and deceptive practices by marketers which are potentially applicable to pay-per-call service. Some of the state requirements, however, are inconsistent with each other and with the federal requirements adopted in this Report and Order. However, interstate and intrastate pay-per-call 900 services must both use the same facilities and a single, nationwide number. With present technology, carriers are unable to jurisdictionally identify and apply different state and federal preamble requirements. The record establishes that neither the LECs, IXCs, nor information providers will know whether the call is intrastate and thus within the state's jurisdiction.

33. In view of the foregoing characteristics of 900 pay-per-call services, the Commission concludes that it must preempt state-imposed preamble requirements. State efforts to impose preamble requirements on interstate pay-per-call service must be preempted to the extent that they would stand "as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." The objective of Congress involved in the present proceeding is the Title I obligation to "make available * * * a rapid, efficient, Nation-wide * * * communications service * * *." 47 U.S.C. 151. State requirements that additional or different material be presented in the preamble for a pay-per-call service will present such an obstacle to the Commission's Title I responsibilities because the state required preamble material would either have to be provided on both intra- and interstate calls, or carriers and information providers would have to develop and install technical means to identify inter- and intrastate traffic and apply different preambles. If the state preamble requirements were imposed on all calls, that action would impose a greater burden and would result in a different balance of interests than the federal requirements would impose. If different preambles could be applied to pay-per-call service that can be accessed on both an intrastate and interstate basis, the state requirements would result in wasteful and inefficient duplication of resources. The preamble requirement adopted herein is meant to establish a nationwide standard for educating consumers about the nature of the call being placed, and conflicting or additional state requirements would cause undue confusion and expense to all parties. In the present case, the same network and customer premises equipment processes both interstate and intrastate pay-per-call services. This preemption encompasses state-imposed preamble requirements purportedly limited to intrastate 900 services because, in the absence of the LECs', IXCs' or information providers' ability to identify intrastate 900 calls, effectuation of the state preamble requirement would necessarily require application of the state requirements to interstate 900 services. Therefore, the Commission concludes that such state requirements would thwart or impede the federal policy and the balance that it has struck herein. See *California* v. *FCC*, 905 F.2d 1217 (9th Cir. 1990); *NARUC* v. *FCC*, 880 F.2d 422 (D.C. Cir. 1989).

III. Final Regulatory Flexibility Analysis

34. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

35. Need and purpose of this action. This Report and Order adopts regulations to protect consumers against unfair and deceptive practices which have occurred in the pay-per-call industry and to provide them with the information they need to make an informed purchase decision about these services.

36. Summary of the issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis. No comments were submitted in response to the Initial Regulatory Flexibility Analysis.

37. Significant alternatives considered and rejected. The initiating documents in this proceeding offered many proposals. The commenters supported the basic thrust of this proceeding but many suggested alternatives to the Commission's proposals. The Commission considered all of the alternatives presented in the proceeding and considered all of the timely filed comments directed to the various issues that were raised. After carefully weighing all aspects of the issues and comments in this proceeding, the Commission has taken the most reasonable course of action to protect consumers against unfair and deceptive practices in the pay-per-call industry and provide consumers with the information they need to make informed purchase decisions about these services.

IV. Conclusion

38. With this Report and Order, the Commission adopts rules that will facilitate consumer choice by requiring disclosure, in a clearly understandable and audible preamble, of the name of the information provider, the price, and a brief description of the product, service or information offered. The rules also require that the caller be given an opportunity to hang up, after obtaining that information, without being charged for the call. The rules provide for the exemption of nominally priced programs and allow bypass of the preamble for repeat callers. The Commission's rules also require a special warning on programs aimed at or likely to be of interest to children under the age of eighteen. The rules require the IXCs to provide the name, address and customer service telephone number of the information providers to whom they provide transmission service. The rules require the LECs to provide blocking of 900 calls for all subscribers, and free one-time blocking for 900 services for residential subscribers. The rules also prohibit carriers from disconnecting basic telecommunications services for failure to remit pay-per-call service charges. Finally, the rules also impose limits on automated collect calls, line seizure by autodialers, and the use of dual-tone, multifrequency tones in advertising for pay-per-call programs.

V. Ordering Clauses

39. Accordingly, *It is ordered*, pursuant to sections 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201–205, and 403, that parts 64 and 68 of the Commission's Rules, 47 CFR parts 64 and 68, are amended as set forth in Rule Changes below.

40. *It is further ordered*, That this Report and Order will be effective thirty (30) days after publication of a summary thereof in the **Federal Register.**

List of Subjects

47 CFR Part 64

Communications common carriers, Computer technology, Telephone.

47 CFR Part 68

Communications common carriers, Communications equipment, Telephone.

Federal Communications Commission

Donna R. Searcy,

Secretary.

Rule Changes

Part 64 of title 47 of the Code of Federal Regulations is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, unless otherwise noted.

2. New §§ 64.709 through 64.716 are added to subpart G to read as follows:

§ 64.709 Definition of Pay-Per-Call Services.

Pay-per-call services are telecommunications services which permit simultaneous calling by a large number of callers to a single telephone number and for which the calling part is assessed, by virtue of completing the call, a charge that is not dependent on the existence of a presubscription relationship and for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call.

§ 64.710 Limitations on the Provision of Pay-Per-Call Services.

Common carriers may provide interstate transmission, under either contract or tariff, for pay-per-call services only under the terms and conditions required by §§ 64.711 through 64.716 of this part.

§ 64.711 Preamble.

(a) Programs must begin with a clearly understandable and audible preamble that states the cost of the call. The preamble must disclose all per call charges. If the call is billed on a usage sensitive basis, the preamble must state all rates, by minute or other unit of time, any minimum charges and the total cost for calls to that program if the duration of the program can be determined. No preamble is required for programs with a flat-rate charge of $2.00 or less.

(b) The preamble must state the name of the information provider and accurately describe the information, product or service that the caller will receive for the fee;

(c) The preamble must inform the caller that billing will commence only after a specific identified event following the disclosure message, such as a signal tone, and must provide a reasonable opportunity for the caller to disconnect before that event;

(d) The preamble associated with interstate pay-per-call offerings aimed at or likely to be of interest to children under the age of eighteen must contain a statement that the caller should hang up unless her or she has parental permission; and

(e) A caller may be provided the means to bypass the preamble on subsequent calls, provided that the caller is in sole control of that capability, except that any bypass device shall be disabled for a period of thirty days following the effective date of a price increase for the pay-per-call service. Instructions on how to bypass must either be at the end of the preamble or the end of the program.

§ 64.712 Identification of Information Providers.

The carrier providing interstate transmission for pay-per-call services shall provide to consumers upon request the name, address and customer service telephone number of any information provider to whom the carrier provides such transmission service, either directly or through another entity such as a service bureau. The carrier shall provide that information at no charge and within a reasonable time upon verbal or written request.

§ 64.713 Blocking of 900 Service.

Local exchange carriers must offer to their subscribers, where technically feasible, an option to block interstate 900 services. Blocking is to be offered at no charge on a one-time basis to all residential telephone subscribers. For blocking requests not within the one-time option and for commercial subscribers, the local exchange carrier may charge a reasonable one-time fee for each such blocking request. Requests by subscribers to remove 900 services blocking must be in writing.

§ 64.714 No Disconnection for Failure to Remit pay-per-call Service Charges.

No common carrier shall disconnect, or order the disconnection of, a telephone subscriber's basic communications service as a result of that subscriber's failure to pay interstate pay-per-call service charges.

§ 64.715 Automated Collect Telephone Calls.

No common carrier shall provide transmission services for pay-per-call services originated by an information provider and charged to the consumer, unless the called party has taken affirmative action clearly indicating that it accepts the charges for the collect pay-per-call service.

§ 64.716 Generation of Signalling Tones.

No carrier shall provide transmission services for any pay-per-call service which employs broadcast advertising which generates the audible tones necessary to complete a call to a pay-per-call service.

PART 68—[AMENDED]

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

Authority: Secs. 4, 201, 202, 203, 204, 205, 208, 215, 218, 226, 313, 314, 403, 404, 410, 602, 48 Stat., as amended, 1066, 1070, 1087, 1094, 1098, 1102, 47 U.S.C. 154, 201, 202, 203, 204, 205, 208, 215, 218, 226, 313, 314, 403, 404, 410, 602, unless otherwise noted.

4. Section 68.318 is amended by adding paragraph (c)(2) to read as follows:

§ 68.318 Additional limitations.

* * * * *

(c) * * *

(2) Automatic dialing devices which deliver a recorded message to the called party must release the called party's telephone line promptly but in no event longer than current industry standards.

* * * * *

[FR Doc. 91-26500 Filed 10-31-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-177; RM-7737]

Radio Broadcasting Services; Orland, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 294B1 for Channel 293A in Orland, California, and modifies the construction permit of Station KXHM (FM) in Orland in response to a petition for rule making filed on behalf of Edward E. Abramson. See 56 FR 29615, June 28, 1991. The coordinates used for Channel 294B1 are 39-45-40 and 122-22-20. With this action the proceeding is terminated.

EFFECTIVE DATE: December 12, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-177, adopted October 15, 1991, and released October 28, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

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 California, is amended by removing Channel 293A and adding Channel 294B1 at Orland.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91-26329 Filed 10-31-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-437; RM-6367, RM-6596]

Radio Broadcasting Services; Harold and Belfry, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 285A to Harold, Kentucky, as that community's first local FM service, at the request of Inter-Mountain Broadcasting Company (RM-6367), and denies a counterproposal filed by Belfry Broadcasting to allot Channel 285A to Belfry, Kentucky (RM-6596). See 53 FR 37610, September 27, 1988. Channel 285A can be allotted to Harold in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.2 kilometers (6.9 miles) east of the community. The coordinates for this allotment are North Latitude 37-31-45 and West Longitude 82-30-20. With this action, this proceeding is terminated.

DATES: *Effective Date;* December 9, 1991. The window period for filing applications will open on December 10, 1991, and close on January 9, 1992.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-437, adopted October 11, 1991, and released October 24, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

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 Kentucky, is amended by adding Channel 285A, Harold.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91-26455 Filed 10-31-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-225; RM-7759]

Radio Broadcasting Services; Crosby, Minnesota

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 268C3 for Channel 269A at Crosby, Minnesota, and modifies the construction permit for Station KTCF--

FM, in response to a petition filed by First Radio Station of Crosby, Inc. See 56 FR 40590, August 15, 1991. Canadian concurrence has been received for this allotment at coordinates 46–33–09 and 93–57–16. With this action, this proceeding is terminated.

EFFECTIVE DATES: December 13, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 91–225, adopted October 18, 1991, and released October 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452–1422.

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 Minnesota, is amended by removing Channel 269A and adding Channel 268C3 at Crosby.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91–26456 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–94; RM–7662]

Radio Broadcasting Services; La Crescent, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 274C3 for Channel 274A at La Crescent, Minnesota, and modifies the license for Station KQEG to specify operation on Channel 274C3, in response to a petition filed by White Eagle Broadcasting, Inc. *See* 56 FR 14495, April 10, 1991. The coordinates for Channel 274C3 are 43–45–15 and 91–18–10. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 13, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 91–94, adopted October 18, 1991, and released October 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452–1422.

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 Minnesota, is amended by removing Channel 274A and adding Channel 274C3 at La Crescent.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91–26457 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–106; RM–7671]

Radio Broadcasting Services; Ocracoke, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Hurricane Communications, Inc., allots Channel 225A to Ocracoke, North Carolina, as the community's first local FM service. See 56 FR 18557, April 23, 1991. Channel 225A can be allotted to Ocracoke in compliance with the Commission's minimum distance separation requirements without a site restriction, at coordinates North Latitude 35–06–52 and West Longitude 75–58–53. With this action, this proceeding is terminated.

DATES: Effective December 12, 1991. The window period for filing applications will open on December 13, 1991, and close on January 13, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91–106, adopted October 9, 1991, and released October 28, 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 North Carolina, is amended by adding Ocracoke, Channel 225A.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91–26330 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–121; RM–7196; RM–7398]

Radio Broadcasting Services; West Liberty and Richwood, Ohio

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Steven Heck, allots Channel 282A to Richwood, Ohio, as the community's first local FM service (RM–7398). See 55 FR 9930, March 16, 1990. Channel 282A can be allotted to Richwood in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates North Latitude 40–25–36 and West Longitude 83–18–00. Canadian

concurrence has been received since Richwood is located within 320 kilometers (200 miles) of the U.S.-Canadian border. The mutually exclusive proposal of RAY Broadcasting Corporation to allot Channel 282A to West Liberty, Ohio, is denied (RM-7196). With this action, this proceeding is terminated.

DATES: Effective date; December 13, 1991. The window period for filing applications will open on December 16, 1991, and close on January 15, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-121, adopted October 16, 1991, and released October 29, 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 Ohio, is amended by adding Richwood, Channel 282A.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91-26458 Filed 10-31-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-464; RM-7470]

Radio Broadcasting Services; Clarendon, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of John W. Lyle, allots Channel 295A to Clarendon, Pennsylvania, as the community's first local FM service. See 55 FR 45622, October 30, 1990. Channel 295A can be allotted to Clarendon in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates North Latitude 41-46-48 and West Longitude 79-05-36. Canadian concurrence has been received since Clarendon is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective December 12, 1991. The window period for filing applications will open on December 13, 1991, and close on January 13, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-464, adopted October 15, 1991, and released October 28, 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 Pennsylvania, is amended by adding Clarendon, Channel 295A.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91-26331 Filed 10-31-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-510; RM-6860]

Radio Broadcasting Services; Beeville, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Lovelace Associates, Inc., licensee of Station KIBL-FM, Channel 285A, Beeville, Texas, substitutes non-adjacent Channel 289C3 for Channel 285A at Beeville, Texas. See 54 FR 48651, January 24, 1989, and Supplementary Information, *infra*. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 12, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-510, adopted October 9, 1991, and released October 28, 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.

No other party expressed an interest in use of the channel at Beeville. Therefore, in accordance with § 1.420(g) of the Commission Rules, Lovelace Associates, Inc.'s license for Station KIBL-FM will be modified to specify operation on non-adjacent Channel 289C3. Channel 289C3 can be allotted in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.8 kilometers (6.1 miles) northwest to avoid short-spacings to Station KCGR-FM, Channel 288A, Portland, Texas, a construction permit (BPH-881128MA) for Station KUKA-FM, Channel 290A, San Diego, Texas, and Station KZTX-FM, Channel 291C2, Refugio, Texas. The coordinates for Beeville are North Latitude 28-27-00 and West Longitude 97-49-51. Since Beeville is located within 320 kilometers (199 miles) of the Mexican border, concurrence of the Mexican government has been obtained for this allotment.

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 Texas, is amended by removing Channel 285A and adding Channel 289C3 at Beeville.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91–26332 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–339; RM–7315]

Radio Broadcasting Services; Coahoma, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Joseph Smitherman, allots Channel 232A to Coahoma, Texas. See 55 FR 31202, August 1, 1990. Channel 232A can be allotted to Coahoma, Texas, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for the allotment of Channel 232A at Coahoma are North Latitude 32–17–36 and West Longitude 101–18–18. Mexican concurrence has been received because Coahoma is located with 320 kilometers (199 miles) of the U.S.-Mexican border. With this action, this proceeding is terminated.

DATES: *Effective Date:* December 13, 1991. The window period for filing applications will open on December 16, 1991, and close on January 15, 1992.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–339, adopted October 16, 1991, and released October 29, 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 Texas, is amended by adding Channel 232A, Coahoma.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91–26459 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–192; RM–7679]

Radio Broadcasting Services; Royal City, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Jon Bruce Thoen, allots Channel 242C3 to Royal City, Washington, as the community's first local FM transmission service. Channel 242C3 can be allotted to Royal City in compliance with the Commission's minimum distance separation requirements without a site restriction. The coordinates for Channel 242C3 at Royal City are North Latitude 46–54–04 and West Longitude 119–37–46. Concurrence by the Canadian government has been obtained, since Royal City is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: *Effective Date:* December 13, 1991. The window period for filing applications will open on December 16, 1991, and close on January 15, 1992.

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. 91–192, adopted October 16, 1991, and released October 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

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 Washington, is amended by adding Channel 242C3, Royal City.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91–26460 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 74

[FCC 91–317]

FM Broadcast Services; Amendment of Booster Station Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends 47 CFR part 74, to: (1) Codify the limitations imposed on FM booster stations by existing international agreements and (2) codify the standards to which FM booster stations must conform in order to prevent increased interference to stations that are 53 or 54 channels removed from the booster station, framing these standards in terms of TPO rather than ERP, to conform with the definition of Class D station contained in § 73.506.

EFFECTIVE DATE: December 9, 1991.

FOR FURTHER INFORMATION CONTACT: Rita McDonald, Policy and Rules Division, Mass Media Bureau (202) 632–5414.

SUPPLEMENTARY INFORMATION:

Order

In the matter of: Amendment of part 74 of the Commission's Rules Regarding FM Booster Stations.

Adopted: October 8, 1991; Released: October 28, 1991.

By the Commission:

1. This Order amends the Commission's Rules governing operation of FM booster stations. These rules were set forth in the Report and Order in MM Docket 87–13.[1] We take two actions

[1] 2 FCC Rcd 4625 (1987).

designed to effectuate our intent in adopting those rules.

2. In order to clarify the applicability of restrictions placed on FM booster stations by existing international agreements,[2] we are codifying such restrictions in § 74.1235 of the Commission's Rules. In that regard, paragraph 24 of the Report and Order incorrectly described the restriction as prohibiting booster stations "with ERP in excess of 50 watts within 199 miles of either the Canadian or Mexican border." [3] In fact, this limitation applies only to those stations in proximity to Mexico, and should be set at 10 watts transmitter power output (TPO) rather than 50 watts effective radiated power (ERP). Applications for FM booster stations located within 320 kilometers (199 miles) of the Mexican border will not be accepted for filing if they specify more than 10 watts TPO. Stations near the Canadian border are authorized to operate under the appropriate domestic rules, found in 47 CFR 74.1235. Specifically, under these requirements, applications for FM booster stations located within 320 kilometers of the Canadian border will not be accepted for filing where the predicted interference or primary service contour of the proposed booster station would extend beyond the corresponding contour of the primary FM station being rebroadcast.[4]

3. Because the rule changes relating to the limitations placed by the Mexican Agreement simply codify the existing state of international agreements to which the United States is bound, and, moreover, involve a foreign affairs function of the United States, affording an opportunity or prior public comment would serve no purpose and is unnecessary. We therefore find good cause to adopt them without prior notice and comment.[5] Similarly, prior notice and comment in the case of revising the ERP limits placed on stations near the Canadian border is unnecessary because the Commission is removing an international restriction erroneously applied and allowing the existing domestic rule to apply.

[1] *See* Agreement between the United States of America and the United Mexican States Concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band, signed November 9, 1972 (Mexican Agreement). See also Agreement Between The Government of the United States of America and the Government of Canada Relating to the FM Broadcasting Service in the 88–108 MHz Frequency Band, 1991.

[3] 2 FCC Rcd at 4628, ¶ 24.

[4] In general, booster stations may not interfere with the signal of any existing primary or full service station, including Canadian stations in the Canadian border region.

[5] *See* 5 U.S.C. 553(b)(B); 553(a)(1).

4. Paragraph 31 of the Report and Order reflected the Commission's decision to treat boosters in the same manner as their full service station equivalents with respect to preventing interference to stations that are 53 or 54 channels removed from the booster station.[6] That decision was not codified, however, and we now take the ministerial action or rectifying that omission. As stated in that Report and Order, applications for FM booster stations that are 53 or 54 channels removed from an FM radio broadcast station will not be accepted for filing if they fail to meet the required separation distances set out in § 73.207 of the Commission's Rules. For purposes of determining compliance with § 73.207, booster stations will be treated the same as their FM radio broadcast station equivalents. FM radio broadcast equivalents will be determined in accordance with §§ 73.210 and 73.211 of the Rules, based on the booster station's ERP and HAAT. However, booster stations operating with less than 100 watts ERP will be treated as Class D stations and will not be subject to intermediate frequency separation requirements.[7]

5. Parties with applications pending for construction of booster stations will be allowed an opportunity to amend their applications to comply with these revised spacing requirements. Those applicants choosing not to amend and whose applications do not conform to the codified provisions of § 74.1204(g) will have their applications dismissed as unacceptable for filing. Because this action is taken in order to codify rules which we decided to adopt after a full notice and comment proceeding, we believe further proceedings would be unnecessary and contrary to the public interest. Thus, we find good cause for adoption of this rule without further notice and comment proceedings.

6. Therefore, it is Ordered, That pursuant to sections 4(i) and 303(b) of the Communications Act of 1934, as amended, part 74 of the FCC Rules and Regulations is Amended as set forth in the appendix, effective December 9, 1991.

7. For further information on this Order, contact Rita S. McDonald, Mass Media Bureau at (202) 632–5414.

[6] *Supra* at 4630, ¶ 31.

[7] A Class D station is one operating with no more than 10 watts TPO. However, most FM boosters and translators use a transmitting antenna with sufficient gain to produce an ERP that is between two and ten times their TPO. Therefore, 100 watts ERP is the equivalent of 10 watts TPO operating with a high gain antenna.

List of Subject in 47 CFR Part 74

Radio broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

47 CFR part 74 is amended as follows:

PART 74—[AMENDED]

1. The authority citation for part 74 continues to read as follows:

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

2. Section 74.1204 is amended by adding text to the end of paragraph (g) to read as follows:

§ 74.1204 Protection of FM broadcast stations and FM translators.

* * * * *

(g) * * * An application for an FM booster station that is 53 or 54 channels removed from an FM radio broadcast station will not be accepted for filing if it fails to meet the required separation distances set out in § 73.207 of this Chapter. For purposes of determining compliance with § 73.207, booster stations will be treated the same as their FM radio broadcast station equivalents. FM radio broadcast station equivalents will be determined in accordance with §§ 73.210 and 73.211 of this chapter, based on the booster station's ERP and HAAT. Provided, however, that FM booster stations operating with less than 100 watts ERP will be treated as Class D stations and will not be subject to intermediate frequency separation requirements.

* * * * *

3. Section 74.1235 is amended by adding new paragraphs (c)(1) and (c)(2) to read as follows:

§ 74.1235 Power limitations and antenna systems.

* * * * *

(c) * * *

(1) Applications for FM booster stations located within 320 kilometers of the Mexican border will not be accepted for filing if they specify more than 10 watts transmitter power output.

(2) Applications for FM booster stations located within 320 kilometers of the Canadian border will not be accepted for filing where the predicted interference or primary service contour of the proposed booster station would extend beyond the corresponding contour of the primary FM station being rebroadcast.

* * * * *

[FR Doc. 91–26328 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 97

[PR Docket No. 90-561; FCC 91-316]

Amateur Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Amateur Service Rules to make generally minor rule changes. These changes are necessary in order to reflect preferred terminology and clarify technical standards and operational requirements. The effect of these rule changes is to make the rules for the amateur service a more meaningful, easy-to-use body of regulations. These changes were proposed in the Notice of Proposed Rule Making, 55 FR 48872 (1990).

EFFECTIVE: December 16 1991.

FOR FURTHER INFORMATION CONTACT: William T. Cross, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted October 8, 1991, and released October 23, 1991. The complete text of this Commission action, including the rule amendments, 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 may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037. The action taken herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520, and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Summary of Report and Order

1. The Amateur Service Rules have been amended to define the terms telecommand, telemetry, and space telemetry and to delete the reference to frequency drift and Doppler shift in the definition for the term "bandwidth". The Commission also amended the Rules to reduce from ten to six the number of MF and HF bands for which a club station must schedule one-way telegraphy practice or information bulletin transmissions in order for its control operator to accept compensation, and to change the term "remote control" to "telecommand" in various sections of the Amateur Service Rules.

2. The Commission also decided to delete the condition that an auxiliary station can be automatically controlled only when it is part of a repeater system and to expand the permissible types of space telemetry transmissions to include transmissions of specially coded messages intended to facilitate communications. The Commission decided not to adopt any changes to the station identification requirement. The Commission decided to include the terms, ASCII, AMTOR, and Baudot, in the definitions for the digital codes.

3. The amended rules are set forth at the end of this document.

4. The amended rules are issued under the authority of 47 U.S.C. 154(i) and 303 (c) and (r).

List of Subjects in 47 CFR Part 97

Satellites, Amateur Radio, Definitions, Digital Codes, Telecommand, Paid Control Operator.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Part 97 of chapter I of title 47 of the Code of Federal Regulation is amended as follows:

PART 97—[AMENDED]

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

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

2. Section 97.3 is amended by revising paragraph (a)(8), by redesignating paragraphs (a)(37), (a)(38), (a)(39), (a)(40), and (a)(41) as paragraphs (a)(38), (a)(40), (a)(42), (a)(43) and (a)(44) respectively, and by adding new paragraphs (a)(37), (a)(39), and (a)(41) to read as follows:

§ 97.3 Definitions.

(a) * * *

(8) *Bandwidth.* The width of a frequency band outside of which the mean power of the transmitted signal is attenuated at least 26 dB below the mean power of the transmitted signal within the band.

* * * * *

(37) *Space telemetry.* A one-way transmission from a space station of measurements made from the measuring instruments in a spacecraft, including those relating to the functioning of the spacecraft.

(39) *Telecommand.* A one-way transmission to initiate, modify, or terminate functions of a device at a distance.

(41) *Telemetry.* A one-way transmission of measurements at a distance from the measuring instrument.

* * * * *

3. Section 97.111 is amended by revising paragraph (b)(3) and by adding new paragraph (b)(7) to read as follows:

§ 97.111 Authorized transmissions.

* * * * *

(b) * * *

(3) Telecommand.

* * * * *

(7) Transmissions of telemetry.

4. Section 97.113(b)(2) is revised to read as follows:

§ 97.113 Prohibited transmissions.

* * * * *

(b) * * *

(2) The station schedules operations on at least six amateur service MF and HF bands using reasonable measures to maximize coverage;

* * * * *

5. Section 97.201(d) is revised to read as follows:

§ 97.201 Auxiliary station.

* * * * *

(d) An auxiliary station may be automatically controlled.

* * * * *

6. Section 97.207(f) is revised to read as follows:

§ 97.207 Space station.

* * * * *

(f) Space telemetry transmissions may consist of specially coded messages intended to facilitate communications or related to the function of the spacecraft.

* * * * *

7. The heading of § 97.211 is revised to read as follows:

§ 97.211 Space telecommand station.

8. Section 97.213 is amended by revising the heading and the introductory text to read as follows:

§ 97.213 Telecommand of an amateur station.

An amateur station on or within 50 km of the Earth's surface may be under telecommand where:

* * * * *

9. The heading of § 97.215 is revised to read as follows:

§ 97.215 Telecommand of model craft.

10. New § 97.216 is added to read as follows:

§ 97.216 Telemetry.

Telemetry transmitted by an amateur station on or within 50 km of the Earth's surface is not considered to be codes or ciphers intended to obscure the meaning of communications.

11. Section 97.309(a) is revised to read as follows:

§ 97.309 RTTY and data emission codes.

(a) Where authorized by §§ 97.305(c) and 97.307(f) of the part, an amateur station may transmit a RTTY or data emission using the following specified digital codes:

(1) The 5-unit, start-stop, International Telegraph Alphabet No. 2, code defined in International Telegraph and Telephone Consultative Committee Recommendation F.1, Division C (commonly known as Baudot).

(2) The 7-unit code specified in International Radio Consultative Committee Recommendation CCIR 476–2 (1978), 476–3 (1982), 476–4 (1986) or 625 (1986) (commonly known as AMTOR).

(3) The 7-unit code defined in American National Standards Institute X3.4–1977 or International Alphabet No. 5 defined in International Telegraph and Telephone Consultative Committee Recommendation T.50 or in International Organization for Standardization, International Standard ISO 646 (1983), and extensions as provided for in CCITT Recommendation T.61 (Malaga-Torremolinos, 1984) (commonly known as ASCII).

* * * * *

[FR Doc. 91–26327 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 821

Rules of Practice in Air Safety Proceedings

AGENCY: National Transportation Safety Board.

ACTION: Final rule: Correction and change of addressee.

SUMMARY: This change of addressee and correction to the rules of practice in air safety proceedings in Part 821 are being made, one, to reflect a change in the NTSB Office to which certain documents are directed and second, to correct an error which resulted in the omission of a clause in § 821.10 as published in the Code of Federal Regulations. The change in the NTSB Office is intended solely to streamline the flow of documents within the NTSB itself.

EFFECTIVE DATE: November 1, 1991.

FOR FURTHER INFORMATION CONTACT: Daniel D. Campbell, General Counsel, National Transportation Safety Board, room 6401, 490 L'Enfant Plaza East, SW., Washington, DC 20594. Telephone: (202) 382–6540.

SUPPLEMENTARY INFORMATION: After the notice of appeal from an administrative law judge's final decision or order, documents will not be filed with the National Transportation Safety Board (NTSB) Office of General Counsel instead of the Office of Administrative Law Judges. This change in the NTSB Office to which certain filings should be directed is intended solely to streamline the flow of documents within the NTSB itself.

The correction is to the second sentence of § 821.10 which should end after, "nor a legal holiday". A third sentence should then begin, "Saturdays, Sundays, and legal holidays * * *"

Because these amendments consist only of a correction and change of addressee and since they do not impose an additional burden on any person, the NTSB finds that notice and public procedure thereon are unnecessary. This correction to § 821.10 sets forth the full and accurate contents of that section. The NTSB has been furnishing to persons who filed a petition for review or an appeal to the Board (and their counsel) a copy of Part 821 with the complete and correct § 821.10. Persons who file such appeals and petitions in the future will also receive notice of the change of addressee.

Regulatory Flexibility Act

Because this rulemaking will not have a significant economic impact on a substantial number of small entities, no Regulatory Flexibility Act (5 USC 601) analysis is required.

Executive Order 12291

The NTSB has determined that this is not a major rule as defined under section 1(b) of Executive Order 12291, Federal Regulation Requirements.

Paperwork Reduction Act

This regulation will not impose any additional information collection requirements on any person.

List of Subjects in 49 CFR Part 821

Administrative practice and procedure, Airmen, Aviation safety.

Accordingly, part 821 of the Board's Rules (49 CFR part 821) is amended as follows:

1. The authority citation for Part 821 continues to read:

Authority: Title VI, Federal Aviation Act of 1958, as amended (49 U.S.C. 1421 et seq.); and Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

2. Paragraphs (a) and (b) of § 821.7 are revised to read as follows:

§ 821.7 Filing of documents with the Board.

(a) *Filing address, date and method of filing.* Generally, documents are to be filed with the Office of Administrative Law Judges. However, subsequent to the filing of a notice of appeal from a law judge's final decision or order (written or oral), all documents should be submitted to the Office of General Counsel. The documents should be directed to the proper office at the National Transportation Safety Board, Washington, DC 20594. Filing of any document shall be by personal delivery or by mail (including United States Government franked envelope). Such documents shall be deemed filed on the date of personal delivery, on the mailing date shown on the certificate of service, on the date shown on the postmark if there is no certificate of service, or on the mailing date shown by other evidence if there is no certificate of service and no postmark.

(b) *Number of copies.* Unless otherwise specified, an executed original and three true copies of each document shall be filed with the appropriate office of the Board. Copies need not be signed, but the name of the person signing the original shall be shown.

* * * * *

3. Section 821.10 is revised to read as follows:

§ 821.10 Computation of time.

In computing any period of time prescribed or allowed by this part, by notice or order of the Board or a law judge, or by any applicable statute, the date of the act, event, or default after which the designated period of time begins to run is not to be included in the computation. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or legal holiday for the Board, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. Saturdays, Sundays, and legal holidays for the Board shall be computed in the calculation of time in all emergency cases under subpart I of

this part and shall be counted in the computation of time in all nonemergency cases where the period of time involves 7 days or more.

Signed in Washington, DC on this 24th day of October, 1991.

Daniel D. Campbell,

General Counsel.

[FR Doc. 91–26228 Filed 10–31–91; 8:45 am]

BILLING CODE 7533–01–M

Proposed Rules

Federal Register
Vol. 56, No. 212
Friday, November 1, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-91-18]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 2, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Angela M. Washington, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-5571.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 28, 1991.

Deborah Swank,

Acting Manager, Program Management Staff Office of the Chief Counsel.

Petitions for Rulemaking

Docket No.: 26647.
Petitioner: Benz Airborne Systems.
Regulations Affected: 14 CFR 27.1305 and 27.1337.
Description of Petition: Petitioner would amend the Federal Aviation Regulations (FAR) to extend to normal category rotocraft the requirement for a warning/caution device and an inflight means to check the electrical circuit and signal now applicable only to transport category rotorcraft.
Petitioner's Reason for the Request: The petitioner believes that installation of chip detector warning/caution devices increases operational safety at minimal costs.

Docket No.: 26144.
Petitioner: Mr. Geoffrey MacMurdo.
Regulations Affected: 14 CFR § 71.401(b).
Description of Petition: Petitioner in would amend the regulations to alter the New York terminal control area by converting a portion of the established controlled airspace into VFR corridors, thereby allowing aircraft to operate under VFR within the corridors without ATC clearance and two-way radio communications with an authorized ATC facility.
Petitioner's Reason for the Request: The petitioner feels that the proposed modification would relieve the congestion on the communication frequencies in the New York area since pilots would not be required to contact an air traffic control facility for clearance to penetrate the terminal control area. The petitioner also feels that the proposed modification would be beneficial because controllers would no longer be distracted by the pilot's request for clearance, thus allowing him to give his full attention to other responsibilities. Disposition: Denied. October 18, 1991.

Docket No.: 26614.
Petitioner: Designed Ideas, Inc.
Regulations Affected: 14 CFR part 143 and § 141.65.
Description of Petition: The petitioner proposes to amend the regulations to allow part 141 flight schools with examining authority to recommend graduates from its approved certification course for ground instructor certificates without taking the Federal Aviation Administration (FAA) written test.
Petitioner's Reason for the Request: The petitioner states that many schools prefer to train their own ground school instructors so that they are knowledgeable on that school's particular training course outlines and are better qualified to coordinate school policies and training with the ground school training and flight training, thus improving overall safety.

[FR Doc. 91-26402 Filed 10-31-91; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-194-AD]

Airworthiness Directives; Boeing Model 737-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 737-200 series airplanes, which currently requires a limitation in the FAA-approved Airplane Flight Manual (AFM) to incorporate certain operational procedures to detect uncommanded changes in the altitude windows of the Mode Control Panel (MCP). This condition, if not corrected, could cause the airplane to fly to an altitude that was not commanded by the pilot. This action would require replacement of the existing MCP with an improved model. This proposal is prompted by the development of a new MCP that is not susceptible to

uncommanded changes in the altitude window

DATES: Comments must be received no later than December 26, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–194–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Skaves, Seattle Aircraft Certification Office, Systems & Equipment Branch, ANM–130S; telephone (206) 227–2795. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–194–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On August 11, 1989, the FAA issued AD 89–18–01, Amendment 39–6305 (54 FR 34500, August 21, 1989), applicable to Boeing Model 737–200 series airplanes equipped with Sperry SP177 autopilots to require a revision to the FAA-approved Airplane Flight Manual (AFM) to incorporate certain operating procedures to detect changes in the altitude window of the Mode Control Panel (MCP). That action was prompted by several reports of uncommanded changes in the selected altitude displayed in the altitude window of the autopilot MCP. This condition, if not corrected, could cause the airplane to fly to an altitude that was not selected by the pilot.

Since the issuance of AD 89–18–01, Honeywell, Inc., Sperry Commercial Flight Systems Division, the manufacturer of the autopilot, has developed a new design MCP that is not susceptible to uncommanded changes in the altitude window.

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–22A1096, dated April 12, 1990, which describes procedures for the replacement of the MCP, Boeing P/N 10–61984–47, –48, –50, –51, –57, –58, –60, or 61, with the new design MCP P/N 10–61984–157, –158, –160, or –161.

Since this condition is likely to exist or develop on other airplanes of this same type design, an airworthiness directive is proposed which would supersede AD 89–18–01 to also require replacement of the MCP in accordance with the service bulletin previously described.

There are approximately 201 Boeing Model 737–200 series airplanes of the affected design in the worldwide fleet. It is estimated that 87 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 man hour per airplane to replace the MCP's, and that the average labor cost would be $55 per man hour. Either replacement MCP's or modification kits would be provided through the manufacturer at no cost to the operator. Based on replacement MCP's, the total cost impact of the AD on U.S. operators is estimated to be $4,785. Incorporation of the modification kits would require approximately 22 man hours per MCP. Based on the operators modifying and then installing the MCP's, the total cost impact of the AD on U.S. operators is estimated to be $105,270.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [AMENDED]

2. Section 39.13 is amended by removing Amendment 39–6305 and by adding the following new airworthiness directive:

Boeing: Docket No. 91–NM–194–AD. Supersedes AD 89–18–01, Amendment 39–6305.

Applicability: Model 737–200 series airplanes; equipped with Sperry SP177 autopilot Flight Control Computers and Mode Control Panels (MCP); certificated in any category.

Compliance: Required as indicated unless previously accomplished.

To prevent uncommanded changes to the target altitude displayed in the altitude window of the autopilot mode control panel (MCP), accomplish the following:

(a) Within 10 days after September 5, 1989 (the effective date of AD 89–18–01, Amendment 39–6305), incorporate the following procedures into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM.

"Autopilot Limitations

For airplanes with SP177 autopilot MCP. Flightcrews must use the following procedures :

1. Check MCP settings after any electrical power interruptions.

2. Following change in ALT selection in the MCP window, check ALT display to ensure desired altitude is displayed.

3. Closely monitor altitude during all altitude changes to ensure that the autopilot captures and levels off at the desired altitude.

Note: Standard "callouts," crew coordination, and cross-checking of MCP settings and flight instruments are necessary to detect any nonselected MCP display number changes.

(b) Within 6 months after the effective date of this AD, replace the MCP in accordance with Boeing Alert Service Bulletin 737-22A1096, dated April 12, 1990.

(c) After completion of paragraph (b) of this AD, remove the Airplane Flight Manual limitation required by paragraph (a) of this AD.

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

Note: The request should be forwarded through a FAA Principal Maintenance inspector, who may concur or comment and then sent to the Manager, Seattle ACO.

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

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

Issued in Renton, Washington, on October 24, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-26400 Filed 10-31-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-169-AD]

Airworthiness Directives; Boeing Model 747-200, 747-300, and 747-400 Series Airplanes, Equipped With General Electric CF6-80C2 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 747-200, 747-300, and 747-400 series airplanes, equipped with General Electric CF6-80C2 engines, which would require replacement of certain sections of the engine fuel supply line in the number one, number three, and number four engine struts. This proposal is prompted by reports indicating that the fuel tubes at the number one and number four engine struts do not have sufficient clearance to prevent contact with the surrounding hardware, and by reports indicating that the fuel line and the fire extinguisher line at the number three strut on certain Boeing Model 747-400 series airplanes do not have sufficient clearance to prevent contact and possible wear. This condition, if not corrected, could result in a leak in the fuel line and a potential fire.

DATES: Comments must be received no later than December 26, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-169-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Regimbal, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2687. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-169-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

There have been reports from operators indicating that the clearance between the fuel tubes and the surrounding hardware in the number one and number four engine struts on certain Boeing Model 747-200, -300, and -400 series airplanes equipped with General Electric CF6-80C2 engines is insufficient to prevent contact and possible wear. The manufacturer has noted that, if the operator adjusts the fuel tubes to achieve sufficient clearance, an excessive load is applied to the tube couplings. This excessive coupling load accelerates the wear on the coupling O-ring, and could lead to fuel leaks and a potential fire.

There has also been a report from an operator indicating that the clearance between the fuel tubes and the fire extinguishing line in the number three engine strut on certain Model 747-400 series airplanes equipped with General Electric CF6-80C2 engines is insufficient to prevent contact and possible wear. This condition, if not corrected, could also result in a leak in the fuel line and a potential fire.

The FAA has reviewed and approved Boeing Service Bulletin 747-28-2153, dated July 18, 1991, which describes procedures for the replacement of one fuel tube in the number one engine strut and two tubes in the number four engine strut on certain Model 747-200, -300, and -400 series airplanes. By installing these new improved fuel tubes and their support assemblies, the necessary increase in the clearance between the fuel tubes and the surrounding hardware will be obtained.

The FAA has also reviewed and approved Boeing Service Bulletin 747-28-2154, dated June 27, 1991, which describes procedures for the replacement of two tubes in the number three engine strut on certain Model 747-400 series airplanes. This installation will provide increased clearance between the fuel tube and the fire extinguishing line so as to prevent contact.

Since these conditions are likely to exist or develop on other airplanes of

this same type design, an AD is proposed which would require replacement of certain fuel tubes in the number one, number three, and number four engine struts in accordance with the service bulletins previously described.

There are approximately 51 Model 747–200, 747–300, and 747–400 series airplanes of the affected design in the worldwide fleet. Currently, no airplanes of U.S. registry would be affected by this AD; therefore, there is no cost impact of this AD on U.S. operators. However, should an affected airplane be imported and placed on the U.S. Register in the future, approximately 28 manhours would be necessary to accomplish the actions required by this AD, and the average labor cost would be $55 per manhour. Based on these figures, the cost impact of the AD on an affected U.S. operator is estimated to be $1,540 per airplane.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [AMENDED]

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

Boeing: Docket No. 91–NM–169–AD.

Applicability: Model 747–200, 747–300, and 747–400 series airplanes, equipped with General Electric CF6–80C2 engines; as listed in Boeing Service Bulletin 747–28–2153, dated July 18, 1991, and Boeing Service Bulletin 747–28–2154, dated June 27, 1991; certificated in any category.

Compliance: Required within 6 months after the effective date of this AD, unless previously accomplished.

To prevent the possibility of a fire as a result of fuel leaks, accomplish the following:

(a) For airplanes listed in Boeing Service Bulletin 747–28–2153, dated July 18, 1991: Replace one fuel tube in the number one engine strut and two fuel tubes in the number four engine strut in accordance with the procedures described in that service bulletin.

(b) For airplanes listed in Boeing Service Bulletin 747–28–2154, dated June 27, 1991: Replace two fuel tubes in the number three strut in accordance with the procedures described in that service bulletin.

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

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

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

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

Issued in Renton, Washington, on October 24, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service

[FR Doc. 91–26399 Filed 10–31–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–195–AD]

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 747–400 series airplanes, which currently requires a limitation in the FAA-approved Airplane Flight Manual (AFM) to prohibit terminal area and enroute area navigation operations under certain conditions. This action would require modification of certain distance measuring equipment (DME). This proposal is prompted by the development, by the manufacturer of the DME, of a design change which would prevent erroneous distance information from being displayed to the flight crew and sent to the flight management computer (FMC). This condition, if not corrected, could result in decreased enroute area navigation (RNAV) accuracy or decreased terminal area navigation capabilities, which may then necessitate missed approaches, the use of alternative means of navigation for approach, or diversion to an alternative airport.

DATES: Comments must be received no later than December 26, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–195–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124; or Rockwell International, Collins Air Transport Division, 400 Collins Road, Cedar Rapids, Iowa 52498. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen M. Slotte, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S; telephone (206) 227–2797. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified

above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–195–AD" The post card will be date stamped and returned to the commenter.

Discussion

On May 21, 1991, the FAA issued AD 91–12–08, Amendment 39–7019 (56 FR 25362, June 4, 1991), to require the addition of a limitation to the FAA-approved Airplane Flight Manual (AFM) which prohibits terminal area and enroute area navigation (RNAV) operations under certain conditions. That action was prompted by the discovery of an anomaly in certain Collins distance measuring equipment (DME) that may be installed on Boeing Model 747–400 series airplanes. This anomaly causes erroneous DME Information to be displayed to the flight crew and sent to the flight management computer (FMC). When this anomaly occurs, the left or right DME interrogator may output either "No Data" or erroneous distance data without a flight deck warning. The DME display will either be blank or provide erroneous distance information. On a 33.5–second cycle, the erroneously displayed distance will change at a rate equal to the rate of change of distance to the ground station at the time the anomaly occurred, then jump back to the original distance. If the affected channel is retuned either manually or by the FMC, the DME display will go blank. DME-supplied data to the FMC is immediately detected and the erroneous DME information and radio updating of the FMC position on the affected side is locked out. Also, the navigational display on the affected side will not display "DD" (DME–DME) or "VD" (VOR–DME) as the FMC position updating mode.

If this anomaly occurs to the DME on the side of the master FMC, the ability of the slave FMC to radio update data may also be affected. If radio updating is unavailable for a specified period, the flight management system control display unit (FMS–CDU) message "IRS NAV ONLY" will be displayed. The FMC will then navigate without continuous radio updating.

This condition, if not corrected, could result in decreased enroute RNAV accuracy or decreased terminal area navigation capabilities, and may necessitate missed approaches, the use of alternative means of navigation for approach, or diversion to an alternative airport.

In the preamble to AD 91–12–08, the FAA advised that the actions required by that AD are considered interim until a corrective modification is developed and FAA approved. Since the Issuance of that AD, the manufacturer has identified the necessary design modifications to correct the malfunction and has issued applicable service information.

The FAA has reviewed and approved Collins Service Bulletins DME–700–34–20, dated June 20, 1991, and DME–700–34–21, Revision 1, dated July 8, 1991, which describe the procedures necessary to modify Collins DME part number 622–4540–120 in order to correct the design deficiencies previously described. The modified DME is identified as part number 622–4540–121.

Since this condition is likely to exist on other airplanes of this same type design, an AD is proposed which would supersede AD 91–12–08 with a new airworthiness directive that would continue to require inspection to determine if Collins DME part number 622–4540–120 is installed; if that DME is installed on the airplane, a limitation is required to be placed in the FAA-approved AFM to prohibit terminal area and enroute RNAV operations under certain conditions. Additionally, this AD would require modification of the DME, within 12 months, in accordance with the service bulletins described previously; once the modification is accomplished, the AFM limitation may be removed.

There are approximately 120 Model 747–400 series airplanes of the affected design in the worldwide fleet. It is estimated that 18 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. The cost of required modification parts is negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,960.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–7019 and by adding the following new airworthiness directive:

Boeing: Docket No. 91–NM–195–AD. Supersedes AD 91–12–08, Amendment 39–7019.

Applicability: Model 747–400 series airplanes, line numbers through 866, except line number 844; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent the use of erroneous distance measuring equipment (DME) information that can result in decreased enroute RNAV accuracy and decreased terminal area navigation capabilities, accomplish the following:

(a) Within 10 days after June 17, 1991 (the effective date of AD 91–12–08, Amendment 39–7019) inspect the airplane or airplane

records to determine if Collins DME part number 622–4540–120 is installed.

(1) If that Collins DME part number is not installed on the airplane, no further action is required.

(2) If that Collins DME part number is installed, prior to further flight, add the following statements to the Limitations Section of the FAA-approved airplane flight manual (AFM). This may be accomplished by placing a copy of this AD in the AFM.

Electronic Systems

Flight Management Computer System

If the FMS–CDU message "IRS NAV ONLY" is displayed in an area where radio updating is expected, terminal area and enroute RNAV operations using the affected FMC are prohibited and the associated DME must be considered inoperative. RNAV operations may be resumed if radio updating is reestablished by the affected FMC.

Distance Measuring Equipment

During approaches requiring DME, left and right DMEs must be tuned to the same station and monitored. If a difference is noted, only that DME which results in a display of "DD" or "VD" on the navigational display may be used for approach.

(b) Within 12 months after the effective date of this AD, modify the DMEs, part number 622–4540–120, in accordance with Collins Service Bulletins DME–700–34–20, dated June 20, 1991, and DME–700–34–21, Revision 1, dated July 8, 1991.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124; or Rockwell International, Collins Air Transport Division, 400 Collins Road, Cedar Rapids, Iowa 52498. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 24, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–26401 Filed 10–31–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Customs Service Field Organization—Port Hueneme, CA

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations pertaining to the field organization of the Customs Service by designating Port Hueneme as a port of entry in the Customs District of Los Angeles, California, of the Pacific Region. The change is being proposed as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before December 31, 1991.

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

FOR FURTHER INFORMATION CONTACT: Joseph O'Gorman, Office of Inspection and Control (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public, Customs is proposing to amend §§ 101.3 and 101.4, Customs Regulations (19 CFR 101.3 and 101.4) by designating Port Hueneme, California, as a port of entry for Customs purposes in the Customs District of Los Angeles, California, within the Pacific Region. Port Hueneme is presently listed in § 101.4(c), Customs Regulations, as a Customs station within the Los Angeles District.

The Board of Harbor Commissioners of the Oxnard Harbor District, which includes Port Hueneme, has requested designation as a port of entry and has stated that such designation would assist in meeting the demand for Customs services in southern California to support international trade and port development. The Board of Harbor Commissioners has stated that approval of this request for port of entry designation would be in the public interest. At the present time Customs business at Port Hueneme involves primarily vessels carrying vehicles and fruit.

In T.D. 82–37 (47 FR 10137), as revised by T.D. 86–14 (51 FR 4559) and by T.D. 87–65 (52 FR 16328), Customs has set forth certain criteria which should be considered in connection with a request for port of entry designation. Specifically, the community requesting such designation must: (1) Demonstrate that the benefits to be derived justify the Federal Government expense involved; (2) be serviced by at least two major modes of transportation (rail, air, water, or highway); and (3) have a minimum population of 300,000 within the immediate service area (approximately a 70-mile radius). In addition, T.D. 82–37 provides that the "actual or potential Customs workload (minimum number of transactions per year)" must meet one of several alternative criteria, one of which is "350 cargo vessel arrivals". Finally, T.D. 82–37 provides that facilities at the location must include wharfage and anchorage adequate for oceangoing vessels if a water port, cargo and passenger facilities, warehousing space for the secure storage of imported cargo pending final Customs inspection and release, and administrative office space, inspection areas, storage areas and other space necessary for regular Customs operations.

The Customs District of Los Angeles has reported to Customs Headquarters that the Oxnard Harbor District is serviced by rail, water, and highway transportation modes and that the immediate service area has a population of 668,600 based on 1990 Census figures. As regards potential Customs workload levels, the Los Angeles District has advised that, based on the proximity of Port Hueneme to the Los Angeles metropolitan area and the relatively lower operating costs at Port Hueneme, and based on recent commercial commitments reached between Port Hueneme and two major ocean carriers as well as indications that other smaller carriers plan to begin or increase arrivals at Port Hueneme, there is a strong likelihood that vessel arrivals, which at 217 in fiscal year 1991 were below the 350 per year figure set forth in T.D. 82–37, will exceed that level by 1993 or early 1994. The Los Angeles District has further advised that Port Hueneme is a modern harbor with deep water berths, container cranes and modern warehousing and that further capital improvements will be made as part of the commercial commitments mentioned above.

Based on the above, Customs believes that Port Hueneme meets the current

standards for port of entry designation set forth in T.D. 82–37.

The geographical limits of the proposed port of entry of Port Hueneme, which approximate the present boundaries of the Oxnard Harbor District, would be as follows:

In Ventura County, California, beginning at the northwest corner of Rancho El Rio De Santa Clara O La Colonia and proceeding east along the Santa Clara River to the City of Fillmore and including the Fillmore city limits, and then from the City of Fillmore south on Highway 23 to the City of Thousand Oaks and including the Thousand Oaks city limits, and then from the City of Thousand Oaks south on Highway 23 to the Ventura County/Los Angeles County line, and then southwest along the Ventura County/Los Angeles County line to a point directly east of Post Mugu, and then directly west to Point Mugu, and then from Point Mugu west along the coastline to the point of beginning.

If the proposed port of entry designation is adopted, the lists of Customs regions, districts, ports of entry, and stations in 19 CFR 101.3(b) and 101.4(c) will be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

Regulatory Flexibility Act

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this document is being issued with notice for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12291

Because this document relates to agency organization and management, it is not subject to Executive Order 12291.

Drafting Information

The principal author of this document was Francis W. Foote, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Approved: October 29, 1991.

Michael H. Lane,

Acting Commissioner of Customs.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 91–26391 Filed 10–31–91; 8:45 am]

BILLING CODE 4820–0–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 95, 100, 173, 174, 175, 177, 179, 181, and 183

46 CFR Part 25

[CGD 91–054]

Review of Boating Safety Regulations

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard will conduct a comprehensive review of currently effective boating safety regulations at the May 1992 meeting of the National Boating Safety Advisory Council (NBSAC). The purpose of the review is to determine if any of the Coast Guard boating safety regulations are in need of change or revision. This notice describes the existing regulations that will be reviewed and solicits comments from the boating public in response to specific questions related to the review. The Coast Guard will provide a summary of the comments received to the NBSAC members for their consideration prior to the May 1992 meeting, and will consider all relevant comments in the formulation of any changes to the boating safety regulations.

DATES: Comments are requested by December 31, 1991.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA–2/3406) (CGD 91–054), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this regulatory review project. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Perry, Regulatory Coordinator, Auxiliary, Boating, and Consumer Affairs Division, (202) 267–0979.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The National Boating Safety Advisory Council (NBSAC) provides advice to the Coast Guard on significant boating safety matters. The Council consists of 21 members drawn equally from 3 segments of the boating community: the boating industry; State boating safety officials; and representatives of national recreational boating organizations and the general public. The Coast Guard consults with NBSAC in the formulation of Coast Guard boating safety regulations.

The Coast Guard has conducted a comprehensive review of the boating safety regulations as part of the NBSAC meeting held in May 1981 and 1986. The Coast Guard asked NBSAC to review the regulations to determine whether they were still necessary, beneficial, cost-effective, and in step with current technology. As a result of these reviews, NBSAC has made many recommendations to improve and update specific provisions in the regulations. The next comprehensive review is scheduled to take place at the NBSAC meeting in May 1992. Details of the exact time and location of the meeting will be published in the notices section of the **Federal Register** at a later date. The meeting will be open to the public. The review will encompass existing Coast Guard regulations that have been issued under the authority of the Chief, Office of Navigation Safety and Waterway Services at Coast Guard Headquarters. The review will not consider any proposed rules not yet issued as final rules. The existing regulations to be reviewed include:

- Restrictions and responsibilities of recreational vessel operators regarding operating a vessel while intoxicated (33 CFR part 95).
- Permit requirements for persons organizing regattas and marine parades (33 CFR part 100).
- Requirements for vessel operators and States regarding vessel numbering

(registration) and accident reporting (33 CFR parts 173 and 174).

• Operator requirements for carrying personal flotation devices (PFDs) on recreational vessels (33 CFR part 175, subpart B).

• Operator requirements for carrying visual distress signals (VDSs on recreational vessels (33 CFR part 175, subpart C).

• Requirements for recreational vessel operators regarding especially hazardous conditions (33 CFR part 177).

• Requirements for manufacturers and importers of recreational vessels and associated equipment regarding safety defect notification and product recall (33 CFR part 179).

• Requirements for manufacturers and importers of recreational vessels regarding certification of compliance (33 CFR part 181, subpart B).

• Requirements for manufacturers and importers of recreational vessels regarding hull identification numbering (33 CFR part 181, subpart C).

• Requirements for manufacturers of personal flotation devices (PFDs) regarding PFD information pamphlets (33 CFR part 181, subpart G).

• Requirements for manufacturers and importers of recreational vessels regarding the determination and display of safe loading and safe powering capacities (33 CFR part 183, subparts B, C, D and N).

• Requirements for manufacturers and importers of recreational vessels regarding vessel flotation performance (33 CFR part 183, subparts F, G and H).

• Requirements for manufacturers and importers of recreational vessels regarding electrical and fuel systems (33 CFR part 183, subparts I and J).

• Requirements for manufacturers and importers of recreational vessels regarding engine and fuel tank ventilation systems (33 CFR part 183, subpart K).

• Requirements for manufacturers and importers of outboard engines regarding start-in-gear protection (33 CFR part 183, subpart L).

• Operator requirements for carrying fire extinguishers on recreational vessels (46 CFR part 25, subpart 25.30).

• Operator requirements for carrying backfire flame arrestors on recreational vessels (46 CFR part 25, subpart 25.35).

• Operator requirements for engine and fuel tank ventilation systems on recreational vessels (33 CFR part 175, subpart D and 46 CFR part 25, subpart 25.40).

Request for Comments

The Coast Guard solicits comments from all segments of the boating community on recommended changes to these existing regulations, including elimination or revocation of a requirement. Persons submitting comments should include their name and address, identify this docket (CGD 91-054), identify the specific boating safety regulation(s) on which comments are being submitted, state what changes in the regulation are needed, and provide reasons to support the recommended change(s). Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard is particularly interested in receiving views, data and reasons on the following review questions:

• *Need*—Is there still a reasonable need for the regulation? Is the problem that the regulation was originally intended to solve still relevant?

• *Technical Accuracy*—Has the regulation kept pace with changes in technological, economic, or other relevant conditions? Are there any changes that could be made to the regulation that would make it more effective in achieving its intended goal?

• *Cost/Benefit*—What are the costs or other burdens/adverse effects of the regulation? What are the perceived benefits of the regulation in terms of personal safety or in other terms? Do the costs outweigh the benefits?

• *Problems*—Are there any problems or complaints in understanding or complying with the regulation?

• *Alternatives*—Are there any non-regulatory ways to achieve the goal of the regulation at a lower cost or reduced burden?

All comments received by the Coast Guard as a result of this notice will be summarized and provided to the NBSAC members for their consideration prior to the May 1992 meeting. The Coast Guard will consider all relevant comments in the formulation of any changes to the boating safety regulations.

Dated: October 29, 1991.

W.J. Ecker,

Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 91-26424 Filed 10-31-91; 8:45 am]

BILLING CODE 491-014-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-306, RM-7824]

Radio Broadcasting Services; Safford, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by P & M Broadcasting, Inc., licensee of Station KXKQ(FM), Channel 231C1, Safford, Arizona, seeking the substitution of channel 231C for Channel 231C1 at Safford, Arizona, and modification of its license accordingly. Coordinates for this proposal are 32-49-30 and 109-45-30. Petitioner's modification proposal complies with the provisions of § 1.420(g) of the Commission's Rules. Therefore, we will not accept competing expressions of interest in the use of Channel 231C at Safford, Arizona, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comment must be filed on or before December 19, 1991, and reply comments on or before January 6, 1992.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Rex Jensen, President, KXKQ(FM), Drawer L, West 8th Street, Safford, AZ 85546.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-306, adopted October 11, 1991, and released October 28, 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 purchase from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st St., NW., Washington, DC 20036.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91–26333 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–312, RM–7583]

Radio Broadcasting Services; Midland and Big Spring, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Three Card Enterprises, permittee of Channel 236A at Midland, Texas, proposing the substitution of Channel 236C3 for Channel 236A and modification of Three Card's authorization to specify operation on the higher powered channel. In order to accommodate the allotment of Channel 236C3 to Midland, we also propose to substitute Channel 239A for Channel 237A at Big Spring, Texas, and to modify the license of Station KBST–FM accordingly. The licensee of Station KBST–FM, Big Spring, Texas, has been ordered to show cause why it should not be modified as described above. See Supplementary Information, *infra*.

DATES: Comments must be filed on or before December 20, 1991, and reply comments on or before January 6, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Patricia A. Mahoney, Esq., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., suite 400, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–312, adopted October 17, 1991, and released October 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Channel 236C3 and Channel 239A can be allotted to Midland and Big Spring, Texas, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 236C3 can be allotted to Midland with a site restriction of 8.4 kilometers (5.2 miles) west to accommodate Three Card's desired site. The coordinates for Channel 236C3 at Midland are North Latitude 32–00–00 and West Longitude 102–10–00. Channel 239A can be allotted to Big Spring and can be used at Station KBST–FM's licensed site. The coordinates for Channel 239A at Big Spring are North Latitude 32–13–20 and West Longitude 101–27–35. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 236C3 at Midland or require Three Card Enterprises to demonstrate the availability of an additional equivalent class channel for use by such parties. Furthermore, since Midland and Big Spring are located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence by the Mexican government has been solicited.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91–26461 Filed 10–31–91; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 56, No. 212
Friday, November 1, 1991

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

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Designation of Idaho (ID), Lewiston (ID), and the State of Utah (UT)

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The FGIS announces the designation of Idaho Grain Inspection Service, Inc. (Idaho), Lewiston Grain Inspection Service, Inc. (Lewiston), and the Utah Department of Agriculture (Utah), to provide official grain inspection under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: December 1, 1991.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-447-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the May 30, 1991, **Federal Register** (56 FR 24366), the FGIS announced that the designations of Idaho, Lewiston, and Utah terminate on November 30, 1991. In the May 30, 1991, **Federal Register**, the FGIS also asked persons interested in providing official services within the geographic areas currently assigned to Idaho, Lewiston, and Utah to submit an application for designation. Applications were to be postmarked by July 1, 1991.

Idaho, Lewiston, and Utah, the only applicants, each applied for the entire geographic area currently assigned to them.

The FGIS named and requested comments on the applicants for designation in the August 1, 1991, **Federal Register** (56 FR 36759). Comments were to be postmarked by September 16, 1991. The FGIS received no comments by the deadline.

The FGIS evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Idaho, Lewiston, and Utah are able to provide official grain inspection in the geographic areas for which they applied.

Effective December 1, 1991, and terminating November 30, 1994, Idaho, Lewiston, and Utah are designated to provide official grain inspection in the geographic areas specified in the May 1 **Federal Register**.

Interested persons may obtain official grain inspection by contacting Idaho at 208-233-8303, Lewiston at 208-746-0451, and Utah at 801-392-2292.

AUTHORITY: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 25, 1991

Neil S. Porter

Acting Director, Compliance Division

[FR Doc. 91-26281 Filed 10-31-91; 8:45 am]

BILLING CODE 3410-EN-F

Request for Comments on the Applicants for Designation in the Geographic Areas Currently Assigned to the Frankfort (IN), and Jinks (IL) Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the geographic areas currently assigned to Frankfort Grain Inspection, Inc. (Frankfort), and Robert H. Jinks dba Jinks Grain Weighing Service (Jinks).

DATES: Comments must be postmarked on or before December 16, 1991.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to [HDUNN/FGIS/USDA].Telecopier users may send responses to the automatic telecopier machine at 202-382-1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-447-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the August 1, 1991, **Federal Register** (56 FR 36761), the FGIS asked persons interested in providing official services within the Frankfort and Jinks geographic areas to submit an application for designation. Applications were to be postmarked by September 3, 1991. Frankfort and Jinks, the only applicants, each applied for the entire area currently assigned to them.

The FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants for designation. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. The FGIS will publish notice of the final decision in the **Federal Register**, and the FGIS will send the applicants written notification of the decision.

AUTHORITY: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 25, 1991

Neil S. Porter

Acting Director, Compliance Division

[FR Doc. 91-26284 Filed 10-31-91; 8:45 am]

BILLING CODE 3410-EN-F

Request for Applications from Persons Interested in Designation to Provide Official Services in the Geographic Areas Presently Assigned to the Detroit (MI), Keokuk (IA), and Michigan (MI) Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall terminate not later than triennially and may be renewed. The FGIS announces that the designations of Detroit Grain Inspection Service, Inc. (Detroit), John H. Oliver, Inc., dba Keokuk Grain Inspection Service (Keokuk), and Michigan Grain Inspection Services, Inc. (Michigan), will terminate, according to the Act, and is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked on or before December 2, 1991.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-447-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes the Administrator of the FGIS to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

The FGIS designated Detroit located at 12840 Imlay City Road, Yale, MI 48097; Keokuk located at 1184 Johnson Street Road, Keokuk, IA 52632; and Michigan located at 189 Lyon Lake Road, Marshall, MI 49068, to officially inspect grain under the Act on May 1, 1989.

Section 7(g)(1) of the Act provides that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations of Detroit, Keokuk, and Michigan terminate on April 30, 1992.

The geographic area presently assigned to Detroit, in the State of Michigan, pursuant to Section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Clinton County line; the eastern Clinton County line south to State Route 21; State Route 21 east to State Route 52; State Route 52 north to the Shiawassee County line; the northern Shiawassee County line east to the Genesee County line; the western Genesee County line; the northern Genesee County line east to State Route 15; State Route 15 north to Barnes Road; Barnes Road east to Sheridan Road; Sheridan Road north to State Route 46; State Route 46 east to State Route 53; State Route 53 north to the Michigan State line;

Bounded on the East by the Michigan State line south to State Route 50;

Bounded on the South by State Route 50 west to U.S. Route 127; and

Bounded on the West by U.S. Route 127 north to U.S. Route 27; U.S. Route 27 north to the northern Clinton County line.

The following location, outside of the above contiguous geographic area, is part of this geographic area assignment: St. Johns Coop., St. Johns, Clinton County (located inside Michigan Grain Inspection Services, Inc.'s area).

The geographic area presently assigned to Keokuk, in the States of Illinois and Iowa, pursuant to Section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Fulton, Hancock, Mason, and McDonough Counties, Illinois.

Davis, Lee, and Van Buren Counties, Iowa.

The following locations, all in Illinois, outside of the above contiguous geographic area, are part of this geographic area assignment: Continental Grain Co., Dallas City, and Lomax Grain Elevator, Lomax, both in Henderson County (located inside Eastern Iowa Grain Inspection and Weighing Service, Inc.'s area); and Ursa Farmers Co-op, Meyer, and Ursa Farmers Co-op, Ursa, both in Adams County (located inside Quincy Grain Inspection & Weighing Service's area).

The geographic area presently assigned to Michigan, in the State of Michigan, pursuant to Section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern and eastern Mason and Newago County lines; the northern Montcalm County line; the western, northern, and eastern Isabella County lines; the northern Gratiot and Saginaw County lines; the western Bay County line; the western and northern Arenac County lines; the western and northern Iosco County lines;

Bounded on the East by the Lake Huron and Saginaw Bay shorelines south and east to State Route 53; State Route 53 south to State Route 46;

Bounded on the South by State Route 46 west to Sheridan Road; Sheridan Road south to Barnes Road; Barnes Road west to State Route 15; State Route 15 south to the Genesee County line; the northern Genesee County line west to the Shiawassee County line; the northern Shiawassee County line west to State Route 52; State Route 52 south to State Route 21; State Route 21 west to Clinton County; the eastern and northern Clinton County lines west to U.S. Route 27; U.S. Route 27 south to U.S. Route 127; U.S. Route 127 south to the Jackson County line; the southern Jackson, Calhoun, Kalamazoo, and Van Buren County lines; and

Bounded on the West by the Lake Michigan shoreline north to the northern Mason County line.

An exception to Michigan's assigned geographic area is the following location inside Michigan's area which has been and will continue to be serviced by the following official agency: Detroit Grain Inspection Service, Inc.: St. Johns Coop., St. Johns, Clinton County.

Interested persons, including Detroit, Keokuk, and Michigan, are hereby given the opportunity to apply for designation to provide official services in the geographic area specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning May 1, 1992, and ending April 30, 1995. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

AUTHORITY: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 25, 1991

Neil S. Porter

Acting Director, Compliance Division

[FR Doc. 91-26283 Filed 10-31-91; 8:45 am]

BILLING CODE 3410-EN-F

Designation of Fostoria, Inc. (OH), Eastern Iowa (IA), and Schneider (IN)

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS announces the designation of Fostoria Grain Inspection, Inc. (Fostoria, Inc.), Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa), and Schneider Inspection Service, Inc. (Schneider) to provide official grain inspection under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: December 1, 1991.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454. Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-447-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the May 30 **Federal Register** (56 FR 24368), FGIS announced that Robert B. Whitta dba Fostoria Grain Inspection requested cancellation of his designation, effective November 30, 1991. In the May 30, 1991, **Federal Register** (56 FR 24366 and 24368), FGIS also asked persons interested in providing official services within the Fostoria geographic area, and the unassigned geographic area in portions of Illinois and Indiana to submit an application for designation. Applications were to be postmarked by July 1, 1991.

There were two applicants for the Fostoria area designation: Fostoria, Inc., and Dennis L. Boltenhouse dba Erie Grain Inspection Service (Erie). Both applied for the entire available geographic area. Erie is a neighboring designated official agency. There were three applicants for the Illinois and Indiana area designation: Schneider, Eastern Iowa, and Kankakee Grain Inspection, Inc. (Kankakee). Schneider and Kankakee each applied for the entire available geographic area. Eastern Iowa applied for all or any portion of the area. Each is a designated official agency adjacent to the Illinois and Indiana area.

FGIS named and requested comments on the applicants for designation in the August 1, 1991, **Federal Register** (56 FR 36759 and 36761). Comments were to be postmarked by September 16, 1991. FGIS received one comment supporting designation of Fostoria, Inc.

FGIS evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Fostoria, Inc., is better able to provide official grain inspection in the Fostoria geographic area, and that Eastern Iowa and Schneider are better able than any other applicant to provide official grain inspection in the geographic areas specified below.

Effective December 1, 1991, and ending November 30, 1994, Fostoria, Inc., is designated to provide official grain inspection in the geographic areas specified in the May 30, 1991, **Federal Register**.

Effective December 1, 1991, and ending with Eastern Iowa's (July 31, 1992) and Schneider's (July 31, 1993) current designations, these agencies are designated to provide official grain inspection in the geographic areas specified below, which together comprise the entire area described in the May 31 **Federal Register**.

Eastern Iowa's designation is hereby amended by adding the following geographic area in the State of Illinois:

Bounded on the North by the Illinois-Wisconsin State line;

Bounded on the East by the Illinois State line at Lake Michigan and the Indiana State line;

Bounded on the South by Interstate 94 east to the Illinois-Indiana State line; the Illinois-Indiana State line south to the northern Will County line; the northern Will County line west to Interstate 55; and

Bounded on the west by Interstate 55 northeast to Interstate 294; Interstate 294 north to Interstate 94; Interstate 94 north to the Illinois-Wisconsin State line.

Schneider's designation is hereby amended by adding the following geographic area in the State of Indiana:

Bounded on the North by the Indiana-Illinois State line at lake Michigan;

Bounded on the East by the northern Indiana State line at Lake Michigan east to Interstate 94;

Bounded on the south by Interstate 94 west to the Indiana-Illinois State line.

Interested persons may obtain official grain inspection by contacting Fostoria, Inc., at 419-435-3804; Eastern Iowa at 319-556-8700; and Schneider at 219-992-2306.

AUTHORITY: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 25, 1991

Neil S. Porter

Acting Director, Compliance Division

[FR Doc. 91-26282 Filed 10-31-91; 8:45 am]

BILLING CODE 3410-EN-F

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB); Expedited Review

DOC has submitted to OMB for expedited clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). The collection is for the National Oceanic and Atmospheric Administration of DOC.

Agency: National Oceanic and Atmospheric Administration.

Title: Southwest Region Logbook Family of Forms.

Form Number: Agency—None; OMB—0648-0214.

Type of Request: Revision of a currently approved collection—Expedited Review.

Burden: 202 respondents; 2,533 reporting hours; average hours per response—.42 hours. For new data requirement 10 respondents are expected; average hours per response—4 hours.

Needs and Uses: Historic longline fishery catch and effort data are needed to identify persons who should be exempt from longline area closures around the main Hawaiian Islands.

Affected Public: Individuals or households, businesses or other for-profit, small businesses or organizations.

Frequency: One-time.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ron Minsk, (202) 395-3084.

The form to collect this information is published below. For any other information, please call or write DOC Clearance Officer, Edwards Michals, (202) 377-3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, Desk Officer, OMB, Room 3019, New Executive Office Building, Washington, DC 20503. He can be reached by calling (202) 395-3084. Comments would be appreciated by no later than November 15, 1991.

Dated: October 28, 1991,

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

OMB Control No.———————

Expires: ———————

Mail or deliver this application to: Pacific Area Office, NMFS, 2570 Dole Street, Honolulu, Hawaii 96822.

APPLICATION FOR EXEMPTION, MAIN HAWAIIAN ISLANDS LONGLINE FISHING PROHIBITED AREA

Supplemental Information

Applicant _____
(Print Name: First, Middle, Last)
Vessel _____

You may be eligible for an exemption from the main Hawaiian Islands Longline Area Closures if you can document you:

1. Currently hold a Hawaii Longline Limited Entry Permit. Please indicate your Limited Entry Permit Number: _____.

2. Were the owner or operator of a vessel when it made landings of pelagic management unit species taken on longline gear prior to 1970 from waters now closed to longline fishing.

3. Were the owner or operator of a vessel when it made landings of pelagic management unit species taken on longline gear in at least five (5) years since (and including) 1970 from waters now closed to longline fishing; and

4. Were the owner or operator of a vessel that made at least 80 percent of its landings of longline-caught pelagic management unit species in any one year in waters now closed to longline fishing.

Please indicate which of the following documents you have attached to demonstrate that you meet the criteria for an exemption from the longline area closures:

[ ] State of Hawaii Catch Reports
[ ] Auction receipts
[ ] Vessel fishing logs
[ ] Signed affidavits
[ ] Other (specify):_____

Signature of Applicant: _____
Date: _____

The public reporting burden for this collection is estimated to average 4 hours per application, including the time for reviewing instructions, searching existing data sources and compiling the necessary information, and completing and submitting the application for exemption. Send comments regarding this burden estimate or on any other aspect of this collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

[FR Doc. 91-26449 Filed 10-31-91; 8:45 am]
BILLING CODE 3510-22-M

Foreign-Trade Zones Board

[Docket 64-91]

Foreign-Trade Zone 177—Evansville, IN; Application for Subzone Mead Johnson Pharmaceutical Plants Evansville and Mt. Vernon, IN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Indiana Port Commission, grantee of FTZ 177, requesting special-purpose subzone status for the pharmaceutical manufacturing facilities of Mead Johnson & Company (MJC) (subsidiary of Bristol-Meyers Squibb Company) in Evansville and Mt. Vernon, Indiana. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 23, 1991.

The MJC plant consists of two sites: Site 1 (700,000 sq. ft. or 65 acres) located at 2400 West Lloyd Expressway, Evansville; and Site 2 (725,000 sq. ft. or 595 acres) located on Highway 62 Mt. Vernon.

The facilities are used to produce pharmaceutical and nutritional products, such as cardiovascular drugs, antibiotics, anti-cancer agents, diagnostic agents, vitamins, minerals and infant formula. Many of these products contain materials that are purchased from abroad, including oils, starches, gum, acids, alcohols, chlorides, phosphates, ammonia, oxides, hydroxides, peroxides, fluorides, sulfites, carbonates, phenols, ethers, aldehydes, amino-compounds, vitamins, antibiotics, medicaments, colorings, flavors, waxes and packaging materials.

Zone procedures would exempt MJC from Customs duty payments on foreign materials used in its exports. On its domestic sales, the company will be able to choose the duty rates that apply to finished products (0–17.5%). The duty rates on the materials range from free to 20 percent. The application indicates that zone savings would help improve the plant's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been approved to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; John F. Nelson, District Director, U.S. Customs Service, North Central Region, 55 Erieview Plaza, Cleveland, Ohio 44114; and Colonel David E. Peixotto, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, Kentucky, 40201–0059.

Comments concerning the proposed subzones are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 19, 1991.

A copy of the application is available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, Federal Building, room 238, 101 NW. Seventh,Evansville, Indiana 47708.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., room 3716, Washington, DC 20230.

Dated: October 24, 1991.

John J. Da Ponte, Jr.
Executive Secretary.

[FR Doc. 91-26450 Filed 10-31-91; 8:45 am]
BILLING CODE 3510-DS-M

[Docket 66-91]

Foreign-Trade Zone 106—Oklahoma City, OK; Application for Subzone, Ted Davis Manufacturing, Inc., Voice Coil Motor Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of the Greater Oklahoma City Area, grantee of Foreign-Trade Zone 106, requesting subzone status for the voice coil motor production facility of Ted Davis Manufacturing, Inc. (TDM) in Oklahoma City, Oklahoma. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 24, 1991.

The TDM plant (1.5 acres, 250 employees) is located at 4027 Will Rogers Parkway, Metropolitan Industrial Park, Oklahoma City, Oklahoma. The facility manufactures voice coil motors for hard disk drives used in personal computers. The only component sourced from abroad is a magnet. Both the magnet and voice coil are classified under HTS number 8505.1100.00 (duty rate—3.2%). Most of the completed products are exported.

Zone procedures would exempt TDM from Customs duty payments on foreign items used in manufacturing operations for export. On any domestic sales, the company would be able to defer Customs duty payments. The application indicates that the zone savings would help improve the plant's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Paul Rimmer, Office of Inspection and Control, U.S. Customs Service, Southwest Region, suite 500, 5850 San Felipe Street, Houston, TX, 77057; and Colonel Frank M. Patete, District Engineer, U.S. Army Engineer District Tulsa, P.O. Box 61, Tulsa, OK 74121.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 19, 1991.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Ronald L. Wilson, Director, 6601 Broadway Extension, Oklahoma City, OK 73116.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: October 28, 1991.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 91-26451 Filed 10-31-91; 8:45 am]

BILLING CODE 3510-DS-M

[Docket 63-91]

Foreign-Trade Zone 61—San Juan, Puerto Rico; Application for Subzone, Searle Pharmaceutical Plant, Caguas, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puerto Rico Commercial and Farm Credit and Development Corporation, grantee of FTZ 61, requesting special-purpose subzone status for the pharmaceutical manufacturing facilities of Searle & Company (Searle) (subsidiary of Monsanto Co.) in Caguas, Puerto Rico, adjacent to the San Juan Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 22, 1991.

The Searle plant (293,000 sq. ft. on 29 acres) is located at Munoz Marin Avenue and Road #189 in Caguas. The facility (504 employees) is used to produce a wide range of pharmaceutical products including cardiovascular, antihistamine, antiasthmatic, hormonal, antimicrobial, anticholinergic, antipsychotic, gastrointestinal, and antidiarrheal products as well as anabolic steroids. Certain materials are purchased from abroad including verapamil, betaxolol, spironolactone, misoprostol, ethynodiol diacetate, haloperidol, calan, oxandrolone, ethynil estradiol norethynodrel, norethindrone, sodium alginate and kerlone.

Zone procedures would exempt Searle from Customs duty payments on material used in production for export. On domestic sales the company would be able to choose the duty rates that apply to finished products (3.9 to 6.3%). The duty rates on the foreign materials range from 0.2 to 13.5 percent. The application indicates that the zone savings will help improve the plant's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been approved to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Regional Director of Inspection & Control, U.S. Customs Service, Southeast Region, 909 SE. First Avenue, Miami, Florida 33131–2595; and Colonel Terrance C. Salt, District Engineer, U.S. Army Engineer District Jacksonville, P.O. Box 4970, Jacksonville, Florida 32232–0019.

Comments concerning the proposed subzones are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 19, 1991.

A copy of the application is available for public inspection at each of the following locations:

Office of the District Director, U.S. Department of Commerce, rm. G–55, Federal Bldg., Chardon Avenue, San Juan, Puerto Rico 00918.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., room 3716, Washington, DC 20230.

Dated: October 24, 1991.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 91-26452 Filed 10-31-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-421-701]

Brass Sheet and Strip From the Netherlands; Preliminary Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests by the respondent, Outokumpu Copper Products B.V. ("OBV") (formerly Metallverken Nederland B.V.), the Department of Commerce has conducted two administrative reviews of the antidumping duty order on brass sheet and strip from the Netherlands. The reviews cover shipments by one exporter to the United States during two consecutive periods from February 8, 1988 through July 31, 1990.

As a result of the reviews, the Department has preliminarily determined to assess antidumping duties equal to the difference between the United States price and foreign market value with respect to this exporter.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 1, 1991.

FOR FURTHER INFORMATION CONTACT: Sally A. Craig or Linda L. Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–3793.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 30455) an antidumping duty order on brass sheet and strip from the Netherlands. On August 18, 1989 and August 31, 1990, respectively, OBV requested that we conduct administrative reviews for the two periods from February 8, 1988 through July 31, 1990. We published notices of initiation of the antidumping administrative reviews on September 20, 1989 (54 FR 38712) and September 24, 1990 (55 FR 39032), respectively. The Department has now conducted these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

Scope of the Review

Imports covered by these reviews are brass sheet and strip, other than leaded brass and tin brass sheet and strip, from the Netherlands. The chemical compositions of the products under review are currently defined in the Copper Development Association ("C.D.A.") 200 series or the Unified Numbering System ("U.N.S.") C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by these reviews. The physical dimensions of the products covered by these reviews are brass sheet and strip

of solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound on reels (traverse wound), and cut-to-length products are included. Until January 1, 1989, such merchandise was Classifiable in the Tariff Schedules of the United States Annotated ("TSUSA") under item numbers 612.3960, 612.3982, and 612.3986. Since that date, the merchandise has been classifiable under the Harmonized Tariff Schedule ("HTS") item numbers 7409.21.00.50, 7409.21.00.75, 7409.29.00.50, and 7409.29.00.75. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The reviews cover one manufacturer/exporter, OBV, and the two periods from February 8, 1988 through July 31, 1990.

United States Price

In calculating United States price, the Department used purchase price and exporter's sales price as defined in section 772 of the Act. For those sales made directly to unrelated parties prior to importation into the United States, we based the United States price on purchase price, in accordance with section 772(b) of the Act. For sales made through related and unrelated sales agents in the United States to an unrelated purchaser prior to the date of importation, we also used purchase price as a basis for determining United States price. For these sales, the Department determined that purchase price was the most appropriate indicator of United States price based on the following elements: (1) The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related or unrelated selling agent; (2) this was a customary commercial channel for sales of this merchandise between the parties involved; and (3) the related or unrelated selling agent located in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer. See Final Determination of Sales at Less Than Fair Value: Color Picture Tubes From Japan, 52 FR 44171 (1987).

Where all of the above elements are met, we regard the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the United States, where the sales agent performs them. *Id.* Whether these functions are performed in the United States or abroad does not change the substance of the transactions or the functions themselves. *Id.* Where the merchandise was imported into the United States by a related importer before being sold to the first unrelated party, we based United States price on exporter's sales price ("ESP"), in accordance with section 772(c) of the Act. The calculation of United States price is detailed below.

Purchase price was based on the packed, delivered, duty-paid prices to unrelated purchasers prior to importation into the United States. We made deductions from purchase price, where appropriate, for point-to-point freight, U.S. freight, U.S. brokerage and handling, and U.S. duty.

Respondent stated in both reviews that some purchase price sales were warehoused by its related U.S. party, Outokumpu Copper (USA) Inc. ("OCUSA"), for delivery to the customer on a just-in-time (as needed) basis. However, respondent noted that certain of these sales were also further processed in the United States by OCUSA but did not separately identify those sales in either review. Therefore, using best information available, any sales showing post-sale warehousing by OCUSA were treated as ESP sales. Any sales in either review period showing an order date later than the entry date into the United States were also treated as ESP sales.

We calculated exporter's sales price for both reviews based on the packed, delivered or ex-works, duty-paid prices of brass sheet and strip to unrelated purchasers in the United States. We made deductions from exporter's sales price, where appropriate, for point-to-point freight, U.S. freight, U.S. duty, and U.S. brokerage and handling. We made deductions for direct and indirect selling expenses incurred by or for the exporter in selling brass sheet and strip in the United States. Indirect selling expenses were comprised of indirect selling expenses incurred outside the United States, indirect selling expenses of the related reseller in the United States, inventory carrying costs, and commissions paid to unrelated parties. The total of the indirect selling expenses formed the cap for the allowable home market indirect selling expenses offset under § 353.56(b)(2) of our regulations. Where appropriate, U.S. credit and U.S. warranty expenses were deducted as direct selling expenses. Pursuant to § 353.41(e)(3) of our regulations, we deducted all value added to the subject merchandise in the United States plus a proportional amount of the profit or loss on the U.S. sales that was attributable to further manufacturing.

Foreign Market Value

In calculating the foreign market value ("FMV"), the Department used home market price as defined in section 773(a) of the Act, because sufficient quantities of such or similar merchandise were sold in the home market to provide a reliable basis for comparison. Home market price was based on the packed, delivered or ex-works prices to unrelated purchasers in the home market. We made deductions from the home market price, where appropriate, for inland freight, warranty expenses, credit expenses, and cash discounts actually granted. Because home market price was net of packing costs, we adjusted for differences in packing costs between the U.S. and home market by adding U.S. packing costs to the foreign market value. We made further adjustments to the home market price to account for differences in the physical characteristics of the merchandise in accordance with section 773 (a)(4)(C) of the Act.

Where U.S. price was based on purchase price, we made adjustments under § 353.56(a)(2) of our regulations for differences in credit and warranty expenses. We limited the amount of indirect selling expenses incurred on home market sales by the amount of U.S. commissions incurred on purchase price sales. See 19 CFR § 353.56(b)(1).

Where U.S. price was based on exporter's sales price, we limited the amount of indirect selling expenses incurred on home market sales by the sum of the indirect selling expenses, including commissions, incurred on sales to the United States. See 19 CFR § 355.56(b)(2). We made a deduction from the ESP price for post-sale warehousing expenses incurred in the U.S. market.

During the first administrative review period, alloys 1063, 1064, 1070, and 1085 were sold in the home market. Therefore, we matched U.S. sales of alloys 1070 and 1085 to identical alloys in the home market. We then matched U.S. sales of alloys 2870 and 2966 to home market sales of alloy 1070 and U.S. sales of alloys 1080 and 1090 to home market sales of alloy 1085. We made adjustments for physical differences in merchandise where such information was provided.

During the second administrative review period, alloys 1064 and 1070 were sold in the home market. Therefore, we matched U.S. sales of alloy 1070 to the identical alloy in the home market. We then matched U.S. sales of alloys 1085, 2870, and 2966 to home market sales of alloy 1070 and

U.S. sales of alloy 1067 to home market sales of alloy 1064. We made adjustments for physical differences in merchandise where such information was provided.

Petitioners made a sufficient allegation in both reviews that sales in the home market were made at prices below the cost of producing the merchandise. Therefore, we investigated whether home-market sales were made below the cost of production ("COP"). We calculated the COP on the basis of OBV's cost of materials, labor, factory overhead, and general expenses. We relied upon the COP data submitted by OBV, with the exception of interest expense, which was not calculated according to the Department's methodology. The Department's questionnaire requested that interest expense be taken from the consolidated financial statements. However, in calculating COP, respondent used the interest expense charged to OBV by related parties and applied the interest based on tonnage of production.

We recalculated interest expense using the total interest expense from the consolidated financial statements of the Outokumpu Group and applied the interest based on cost of sales.

We compared the packed home market prices, net of inland freight and cash discounts, to the COP for both review periods. In accordance with section 773(b) of the Act, in determining whether to disregard home market sales made at prices below the COP, we examined whether such sales have been made in substantial quantities over an extended period of time. We have determined that the threshold for "extended period of time" is met when there are below-cost home market sales in three or more months of the period of review. When less than 10 percent of the home market sales of each model were at prices below the COP, we did not disregard any sales and made normal price-to-price comparisons. When more than 10 percent, but less than 90 percent of the home market sales of a particular model were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV provided that these below cost sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model for purposes of calculating FMV. No home market below-cost sales were disregarded unless they were determined to be over an extended period of time. Sufficient sales at or above the COP were found in both review periods to form the basis for comparison.

Preliminary Results of Review

As a result of our comparison of the United States price to foreign market value, we preliminarily determine that the following margins exist for OBV:

Period of review	Margin (percent)
2/8/88 to 7/31/89	9.19
8/1/89 to 7/31/90	8.08

Interested parties may request disclosure within five days of the date of publication of this notice and may request a hearing within ten 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 the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all entries of the subject merchandise covered by these reviews. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service upon completion of these administrative reviews.

Furthermore, the following deposit requirements will be effective upon publication of the final results of these reviews for all shipments of the subject merchandise from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for OBV will be that established in the final results of these reviews; (2) if the exporter is not a firm covered by the reviews or by the initial investigation, but the manufacturer is covered by the reviews or the investigation, then the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews; and (3) the cash deposit rate for all other exporters/producers shall be 8.08 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's regulations (19 CFR 353.22).

Dated: October 24, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-26453 Filed 10-31-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-015]

Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On August 2, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on television receivers, monochrome and color, from Japan. The review covers one manufacturer/exporter of this merchandise to the United States and the period March 1, 1988, through February 28, 1989.

We gave interested parties an opportunity to comment on our preliminary results. No hearing was requested in this administrative review.

Based on our analysis of the comments received, and the correction of a clerical error, we have changed the preliminary results of this review. The final margin is 2.89 percent.

EFFECTIVE DATE: November 1, 1991.

FOR FURTHER INFORMATION CONTACT: Orlando Velez, David Mason, or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 37076) the

preliminary results of its administrative review of the antidumping finding on television receivers, monochrome and color, from Japan (36 FR 4597, March 10, 1971). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of television receivers, monochrome and color, from Japan. Television receivers include, but are not limited to, units known as projection televisions, receiver monitors, and kits (containing all parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units, and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image. Prior to January 1, 1989, television receivers, monochrome and color, were classifiable under item numbers 684.9230, 684.9232, 684.9234, 684.9236, 684.9238, 684.9240, 684.9245, 684.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9256, 684.9258, 684.9262, 684.9263, 684.9265, 684.9270, 684.9275, 684.9400, and 684.9655 of the Tariff Schedules of the United States Annotated (TSUSA). As of January 1, 1989, this merchandise is classifiable under Harmonized Tariff Schedules (HTS) item numbers 8528.10.80, 8528.11.60, and 8528.20.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers one manufacturer and/or exporter of Japanese television receivers, Mitsubishi Electric Corporation (Mitsubishi), for the period March 1, 1988, through February 28, 1989.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received case briefs and rebuttal comments from one domestic party to the proceeding, Zenith Electronics Corporation (Zenith), and from the respondent, Mitsubishi.

Comment 1: Zenith contends that the Department's treatment of Japanese commodity taxes rebated or not collected by reason of exportation was unlawful. According to Zenith, the Department added the full amount of the tax to U.S. price and made a circumstance-of-sale (COS) adjustment to foreign market value (FMV) for the difference between the amount of Japanese and U.S. tax. Zenith argues that the Department should impose a tax cap on the amount of the tax determined to have been forgiven by reason of export and that no adjustment should be made to the FMV for the difference between the two tax amounts. In support of its contention, Zenith cites *Zenith Electronics Corp.* v. *United States,* 633 F. Supp. 1382 (CIT 1986), *appeals dismissed,* 975 F.2d 291 (Fed. Cir. 1989) *(Zenith I); Daewoo Electronics Co.* v. *United States,* 712 F. Supp. 931 (CIT 1989) *(Daewoo);* and *Zenith Electronics Corp.* v. *United States (Zenith II),* 755 F. Supp. 397 (CIT 1990) (as clarified by order dated Feb. 20, 1991).

Department's Position: We do not agree with the Court of International Trade (CIT) in *Zenith I* or *Daewoo,* and are seeking an appeal on the merits of this issue. Because we believe that dumping margins should neither be inflated nor deflated by differences between Japanese taxes and imputed taxes applied to U.S. price, we do not agree with the CIT's position on adjustments for differences in commodity taxes. After calculating the amount of commodity tax and adding it to U.S. price, we make a circumstance-of-sale adjustment to FMV for the differences in taxes by deducting the Japanese commodity tax from FMV and replacing it with the imputed commodity tax on the U.S. sales. See our response to Comment 1 in Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Review (56 FR 12702, March 27, 1991) and our response to Comment 4 in Color Television Receivers, Except for Video Monitors, from Taiwan; Final Results of Antidumping Duty Administrative Review (56 FR 31380, July 10, 1991).

Comment 2: Zenith argues that the Department has failed to take into account earnable interest on payments made sometime after an obligation to pay is incurred. Zenith reasons that, when an obligation is paid sometime after it is incurred, the respondent has in effect been granted "delayed payment terms." The benefit derived from paying these obligations on a delayed basis should be taken into account when calculating the true cost of a claimed selling expense. According to Zenith, the true cost of an after-sale rebate, for example, should be measured as the amount of the paid rebate less any interest earned during the period that payment of the rebate was outstanding. Zenith, therefore, urges the Department to offset claimed selling expenses used in adjusting the FMV by applying the respondent's short-term interest rate to the average age of such payables as after-sale rebates and discounts.

Mitsubishi argues that the Department should continue its policy not to make such a deduction. According to Mitsubishi, even if the Department reversed its policy, to ensure an "apples-to-apples" comparison, a similar adjustment would have to be made in the U.S. market, thereby cancelling out the effects of adjusting selling expenses for interest earned on accounts payable.

Department's Position: We disagree with Zenith. We have addressed this issue in past reviews of this case. See, *e.g.,* Comment 8, Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review (52 FR 8940, March 20, 1987), Comment 2, Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review (54 FR 13197, April 6, 1989), and Comment 4, Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part (54 FR 35519–20, August 26, 1989). The Department avoids imputing expenses where a company quantifies and documents to our satisfaction the expenses at issue.

Comment 3: Zenith argues that the Department should deduct antidumping-related legal expenses from exporter's sales price (ESP). According to Zenith, these expenses are selling expenses because they are incurred as a result of a respondent selling the merchandise under review in the United States at prices below FMV. Moreover, Zenith argues that there is no basis for retaining in ESP legal expenses incurred as a result of an antidumping proceeding when all other legal expenses incurred by a foreign company's U.S. subsidiary are deducted from ESP.

Mitsubishi argues that making an adjustment for antidumping-related legal expenses would penalize companies for asserting their rights under U.S. antidumping laws.

Department's Position: We disagree with Zenith. As we have stated in previous reviews of this finding, and of the antidumping duty orders on color television receivers from the Republic of Korea and Taiwan, we do not consider legal expenses incurred in defending against an allegation of dumping to be expenses incurred in selling the merchandise in the United States. As a result, we have not deducted these expenses from ESP in these final results. See also our response to Comment 4 in Television Receivers, Monochrome and Color, From Japan; Final Results of

Antidumping Duty Administrative Review (54 FR 13919, April 6, 1989).

Comment 4: Zenith argues that the Department should deduct from U.S. price payments of estimated antidumping duties and any expenses related to such payments. According to Zenith, these items should be deducted from U.S. price along with the estimated ordinary duties paid because the statute specifically requires that "United States import duties" be deducted from U.S. price.

Department's Position: We disagree with Zenith. As we have stated in previous reviews of this finding, we believe that using estimated amounts of antidumping duties in our calculations would result in inaccurate margins. We do not consider payments of estimated antidumping duties to be expenses related to sales of merchandise under consideration for this review period. Further, given the possibility that these estimated duties could vary significantly from duties that may be assessed, we do not consider them to qualify as "expenses" within the meaning of § 772(d)(2)(A) of the Tariff Act for purposes of determining U.S. price. Finally, estimated duties and duties assessed are paid by the importer, which, in some cases, is unrelated to the party whose sales are under review. As a result, we have not deducted them from U.S. price in these final results. See our response to Comment 5 in Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Administrative Review (55 FR 35916, September 4, 1990), our response to Comment 6 in Color Television Receivers from the Republic of Korea; Final Results of Antidumping Administrative Review (56 FR 12701, March 27, 1991), and our response to Comment 8 in Color Television Receivers, Except for Video Monitors, from Taiwan; Final Results of Antidumping Administrative Review (56 FR 31380, July 10, 1991).

Comment 5: Zenith alleges that Mitsubishi may have included non-selling expenses as indirect selling expenses for the ESP offset to FMV. Zenith urges the Department to make an affirmative determination that each claimed expense is in fact a selling expense and not a general or administrative expense.

Department's Position: Zenith has not directed its comments to any specific selling expenses. Without more specific information the Department cannot respond in detail. The Department, however, has no reason to suspect that the claimed expenses are not related to selling activities.

Comment 6: Mitsubishi argues that the Department should calculate the commodity tax on U.S. sales on the basis of Mitsubishi's U.S. subsidiary's sales prices to its customers, instead of basing it on the transfer price less transportation costs and packing. Mitsubishi states that the Japanese tax law suggests a preference for a commodity tax base derived from an arm's-length price. Mitsubishi urges the Department, therefore, to change its calculation in order to bring it more closely into accord with Japanese commodity tax law. Finally, Mitsubishi urges the Department to follow the CIT decision regarding the seventh administrative review of this order. The CIT decision directed the Department to calculate the tax as the unit price multiplied by 0.19. See *Zenith Electronics Corp.* v. *United States*, 755 F. Supp. 397 (CIT 1990).

Zenith argues that the Department's preliminary determination is correct insofar as it calculates the amount of forgiven tax on the basis of related-party export prices less movement charges. Zenith points out that the Japanese commodity tax law accepts the use of a related-party price as an arm's-length price for purposes of applying the commodity tax law. Mitsubishi's home market taxable value, for example, was the price at which Mitsubishi sold to its related home market distributors.

Department's Position: We disagree with Mitsubishi and agree with Zenith. We have addressed this issue recently in Television Receivers, Monochrome and Color from Japan; Final Results of Antidumping Administrative Review (56 FR 38418, August 13, 1991). The tax base used to calculate the addition to U.S. price for commodity taxes forgiven upon export is the tax base most analogous to that used in the home market. In this case the home market tax base was an ex-factory price and the tax rate was 20 percent. We have therefore calculated the U.S. commodity tax as 20 percent of the transfer price less movement expenses. We do not agree with the CIT decision in *Zenith Electronics Corp.* v. *United States*, 755 F. Supp. 397 (CIT 1990).

Comment 7: Mitsubishi argues that the Department incorrectly calculated the adjustment for differences in the physical characteristics of the merchandise being compared (difmer). Mitsubishi submitted variable cost differentials between United States and home market comparison models for three six-month accounting periods that cover the twelve-month period of review. In adjusting home market price for these differentials, the Department departed from its practice in previous reviews of Mitsubishi and weight-averaged the difmers for the three six-month periods, instead of using the period-specific difmers as submitted. Mitsubishi contends that the period-specific difmers are plainly more accurate than the weighted-average difmers and the Department should therefore recalculate Mitsubishi's difmer adjustments accordingly.

Department's Position: We agree in part. The use of a weighted-average difmer was occasioned by the absence of difmers for certain six-month periods in which there were U.S. sales. For the preliminary results of review, we used the weighted-average difmer for all matches to similar merchandise, even though, for some, a six-month-specific difmer was reported. For these final results, in those cases where no difmer was reported for a six-month period and a U.S. sale occurs within the same six-month period, we have used the difmer from the previous six-month period as the most accurate quantification of the cost differential related to physical differences in merchandise. For all other matches, we have used the difmer for the six-month period in which the U.S. sale occurred.

Comment 8: Mitsubishi claims that the Department erred in rejecting the company's submitted research and development (R&D) cost calculation in favor of R&D costs calculated on a company-wide basis. Mitsubishi argues that in past administrative reviews, the Department has accepted R&D cost calculations similar to those submitted in this review. Accordingly, Mitsubishi urges the Department to use the R&D cost figures originally provided by the company in its response to the Department's cost of production (COP) questionnaire.

Department's Position: In its COP response, Mitsubishi reported separately the R&D costs incurred by each of its headquarters laboratories. Certain of the laboratories, however, reported negative R&D amounts for the period of review. These amounts were offset against the R&D expenses incurred by the other laboratories. Mitsubishi's explanation of the apparent inconsistency was that, during the period of review, the laboratory expenses were controlled through budget accounting principles, and that when actual R&D costs were less than budgeted expenditures, the company's accounting records reflected negative balances.

In our preliminary results memorandum dated August 12, 1991, we explained our interpretation of the negative R&D figures submitted by

Mitsubishi. Based on the company's explanation, we determined that the amounts represented net budget-to-actual adjustments rather than Mitsubishi's actual R&D costs for the review period.

Consequently, we recalculated R&D costs using company-wide figures from Mitsubishi's financial statements.

Our treatment of Mitsubishi's R&D costs was discussed with the company's counsel during the preliminary results disclosure conference. (See August 23, 1991 memorandum to the official file.) Although counsel could not explain the negative R&D figures, they stated that Mitsubishi would submit information clarifying its R&D accounting methods and the negative figures it reported. Given the circumstances, we stated that we would accept this clarifying information and consider it for our final results.

Mitsubishi, however, never submitted any additional data regarding its R&D accounting methods. Nor did the company provide any explanation of the R&D figures originally reported in its response. Accordingly, for our final results of review, we continue to use, as the best information otherwise available, the R&D figures that we determined for our preliminary results.

Comment 9: Mitsubishi urges the Department to explain why interest income and expenses must be related to operations in order to be included in its COP calculations. Moreover, Mitsubishi believes the Department should explain why it is reasonable and consistent to conclude that long-term interest expenses are related to operations while long-term income is not. According to Mitsubishi, the Department's treatment of long-term interest and expenses must be symmetrical; if long-term interest is included, then long-term income must also be included as an offset.

Department's Position: We disagree with Mitsubishi. The company's submitted net financing costs were derived from interest income and expense figures reported by Mitsubishi's operating company. In keeping with our well-established practice, we recalculated Mitsubishi's financing costs using amounts reported in the company's consolidated financial statements. See Antifriction Bearings from the Federal Republic of Germany, Appendix B (54 FR 18992, May 3, 1989). In addition, also consistent with our past practice for deriving net financing costs, we offset Mitsubishi's consolidated interest expense from both short- and long-term borrowings with only that portion of interest income earned from short-term investments of the company's working capital. While Mitsubishi made no comment regarding our use of consolidated financial statement figures to revise its submitted financing costs, the company did object to the fact that we limited our interest expense offset to short-term interest only.

We have addressed Mitsubishi's financing cost concerns in past antidumping proceedings—most recently, in another administrative review of Japanese televisions. See Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review (56 FR 34184, July 26, 1991). Contrary to the position advocated by Mitsubishi, we do not consider interest income or expense that is unrelated to the company's daily operations to be an element of production costs. Simply stated, in determining the cost of subject merchandise, the Tariff Act does not provide us the authority to include income or expenses that are unrelated to the product's manufacture. See Sweaters Wholly or in Chief Weight of Man-made Fiber from Korea; Final Determination of Sales at Less Than Fair Value (55 FR 32659, August 10, 1990).

We consider interest income earned from long-term investments to be the result of an income-producing activity that is separate from the company's manufacturing operations. Unlike investments of short-term working capital, such long-term invested funds are not earmarked to finance the company's current business cycle. On the other hand, in the case of short- and long-term interest expense, companies by and large incur debt in order to finance assets used in their business operations. Because the fungible nature of operating capital precludes us from tracing specific borrowings to the production assets financed, we treat all debt-related expenses as a cost of funding current operations and, consequently, as a cost of production. See Titanium Sponge from Japan; Final Results of Antidumping Duty Administrative Review and Tentative Determination to Revoke in Part (54 FR 13403, April 3, 1989).

Final Results of the Review

As a result of the comments received, we have revised our preliminary results for Mitsubishi, and we determine the margin to be:

Manufacturer/exporter	Margin (percent)
Mitsubishi Electric Corp	2.89

The Department will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated dumping duties of 35.40 percent, based upon the margin for Mitsubishi in the March 1, 1989 through February 28, 1990 review period, will be required for Mitsubishi. For any future entries of this merchandise from a new exporter not covered in this or in prior reviews, who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 17.07 percent shall be required. This cash deposit rate is the highest non-BIA rate for any firm whose sales were reviewed in the March 1, 1989 through February 28, 1990 review period. See Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review (56 FR 34180, July 26, 1991). For merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in a determination covering the most recent review period for which the manufacturer or exporter received a company-specific rate. These deposit requirements are effective for all shipments of Japanese television receivers, monochrome and color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Commerce regulations (19 CFR 353.22) (1991).

Dated: October 24, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-26454 Filed 10-31-91; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: State of Connecticut Service Area

AGENCY: Minority Business Development.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) is cancelling the announcement to solicit competitive applications under its Minority Business Development Center program to operate a MBDC for a three (3) year period, starting January 1, 1992 to December 31, 1992 in the Connecticut Standard Metropolitan Statistical Areas (SMSA). Refer to the **Federal Register** dated August 29, 1991 Vol. 56, No. 1268. page 42720.

Dated: October 8, 1991.

John F. Iglehart,

Regional Director, New York Regional Office.

[FR Doc. 91-26416 Filed 10-31-91; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications: Cleveland, OH; Service Area

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated at $184,260 in Federal funds, and a minimum of $32,516 in non-federal (cost-sharing) contributions from April 1, 1992 to March 31, 1993. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Cleveland, Ohio geographic service area. The award number of this MBDC will be 05-10-92002-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by Regional staff on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purposes of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate, after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding accounts receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements: Unsatisfactory performance of MBDC work requirements: and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreements" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101-121, which generally prohibits with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for applications is December 8, 1991. Applications must be postmarked on or before December 8, 1991.

MAILING ADDRESS FOR SUBMISSION: Proposals will be reviewed by the New York Regional Office. The mailing address for submission of applications is: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, room 3720, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

ADDRESSES: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, suite 1440, Chicago, Illinois 60603, 312/353–0182.

STATUTORY AUTHORITY: 15 U.S.C. 1512.

FUNDING AUTHORITY: Executive Order 11625, October 13, 1971.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Note: A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 55 East Monroe, suite 1440, Chicago, Illinois, November 15th at 10 a.m.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: October 28, 1991.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 91–26388 Filed 10–31–91; 8:45 am]

BILLING CODE 3510–21–M

Business Development Center Applications: Columbus, OH; Service Area

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated at $165,000 in Federal funds, and a minimum of $29,118 in non-federal (cost-sharing) contributions from April 1, 1992 to March 31, 1993. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Columbus, Ohio geographic service area. The award number of the MBDC will be 05–10–92001–01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by Regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purposes of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales over $500,000.

MBDCs performing satisfactorily may continue to operate, after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A–129, "Managing Federal Credit Programs," applicants who have an outstanding accounts receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements: Unsatisfactory performance of MBDC work requirements: and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreements" and SF–LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101–121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for applications is December 8, 1991. Applications must be postmarked on or before December 8, 1991.

MAILING ADDRESS FOR SUBMISSION: Proposals will be reviewed by the New York Regional Office. The mailing address for submission of applications is: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, room 3720, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

ADDRESSES: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, suite 1440, Chicago, Illinois 60603, 312/353–0182.

STATUTORY AUTHORITY: 15 U.S.C. 1512.

FUNDING AUTHORITY: Executive Order 11625, October 13, 1971.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Note: A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 55 East Monroe, suite 1440, Chicago, Illinois, November 15th at 10 a.m.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: October 28, 1991.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 91–26389 Filed 10–31–91; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Council's Scientific and Statistical Committee (SSC) will hold a public meeting on November 6, 1991, at 10 a.m. The meeting will be held at The Airport Hilton Hotel, 10th Street and Packer Avenue, Philadelphia, PA.

The (SSC) will discuss information on the issue of impacts between recreational and commercial fishing of mackerel.

For more information, contact John Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901, telephone: (302) 674–2331.

Dated: October 28, 1991.

David S. Crestin,

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

[FR Doc. 91–26379 Filed 10–31–91; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in China

October 28, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–6828. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, carryforward and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 48268, published on November 20, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 28, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on October 28, 1991, you are directed to amend further the directive dated November 14, 1990 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit [1]
Levels not in a group	
200	591,449 kilograms.
218	10,691,244 square meters.
237	1,597,717 dozen.
300/301	2,372,450 kilograms.
333	32,375 dozen.
334	287,835 dozen.
341	544,028 dozen of which not more than 365,022 dozen shall be in Category 341–Y [2].
342	251,024 dozen.
345	120,610 dozen.
347/348	2,304,698 dozen.
350	138,567 dozen.
359–V [3]	669,866 kilograms.
360	6,593,460 numbers of which not more than 4,566,506 numbers shall be in Category 360–P [4].
361	3,743,919 numbers.
363	28,521,767 numbers.
369–D [5]	4,346,643 kilograms.
369–L [6]	2,681,708 kilograms.
433	23,702 dozen.
440	16,782 dozen of which not more than 16,782 dozen shall be in Category 440–M [7].
443	99,818 numbers.
444	208,435 numbers.
448	22,776 dozen.
613	2,577,784 square meters.
617	15,788,026 square meters.

Category	Adjusted twelve-month limit [1]
631	812,865 dozen pairs.
633	23,000 dozen.
634	533,180 dozen.
635	573,317 dozen.
636	488,986 dozen.
640	1,414,459 dozen.
641	1,338,465 dozen.
642	285,797 dozen.
648	1,065,952 dozen.
649	824,885 dozen.
650	100,324 dozen.
651	680,591 dozen of which not more than 114,117 dozen shall be in Category 651-B [8].
652	2,299,616 dozen.
659-C [9]	261,690 kilograms.
659-H [10]	2,445,843 kilograms.
659-S [11]	495,715 kilograms.
670-L [12]	13,929,272 kilograms.
831	462,934 dozen pairs.
840	175,237 dozen.
846	75,792 dozen.
847	1,174,777 dozen.
Group II 330, 332, 349, 353, 354, 359-O [13], 431, 432, 439, 459, 630, 632, 633, 643, 644, 653, 654, 659-O [14], as a group.	112,012,623 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

[2] Category 341-Y: only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

[3] Category 359-V: only HTS numbers 6103.19.2030, 6103.19.4030, 6104.12.0040, 6104.19.2040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.0044, 6110.90.0046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.4030, 6204.12.0040, 6204.19.3040, 6211.32.0070 and 6211.42.0070.

[4] Category 360-P: only HTS numbers 6302.21.1010, 6302.21.1020, 6302.21.2010, 6302.21.2020, 6302.31.1010, 6302.31.1020, 6302.31.2010 and 6302.31.2020.

[5] Category 369-D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[6] Category 369-L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000.

[7] Category 440-M: HTS numbers 6203.21.0030, 6203.23.0030, 6205.10.1000, 6205.10.2010, 6205.10.2020, 6205.30.1510, 6205.30.1520, 6205.90.2020, 6295.90.4020 and 6211.31.0030.

[8] Category 651-B: only HTS numbers 6107.22.0015 and 6108.32.0015.

[9] Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[10] Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[11] Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[12] Category 670-L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.

[13] Category 359-O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359-C); 6103.19.2030, 6103.19.4030, 6104.12.0040, 6104.19.2040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.0044, 6110.90.0046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.4030, 6204.12.0040, 6204.19.3040, 6211.32.0070 and 6211.42.0070 (Category 359-V).

[14] Category 659-O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659-C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659-H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659-S).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-26446 Filed 10-31-91; 8:45 am]

BILLING CODE 3510-DR-F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Romania

October 28, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: November 4, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Romania reached agreement, effected by exchange of notes dated May 7, 1991, June 10, 1991 and August 15, 1991, to extend their Bilateral Cotton Textile Agreement and Bilateral Wool and Man-Made Fiber Textile Agreement for three consecutive one-year periods beginning on January 1, 1991 and extending through December 31, 1993.

A copy of the bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreements, but are designed to assist only in the implementation of certain of their provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 28, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Cotton Textile Agreement, effected by exchange of notes dated January 28 and March 31, 1983, as amended and extended; and the Bilateral Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated November 7 and 16, 1984, as amended and extended, between the Governments of the United States and Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 4, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1991 and extending through December 31, 1991, in excess of the following levels of restraint:

Category	Twelve-month restraint limit [1]
Group I	
200, 201, 218–220, 222–227, 229, 237, 239, 300, 301, 313–315, 317, 326, 330–342, 345, 347–354, 359–363, 369, 800, 810, 831–836, 838–840, 842–847, 850–852, 858, 859, 863, 870, 871 and 899, as a group.	42,821,167 square meters equivalent.
Sublevels in Group I	
237	61,000 dozen.
313	1,672,255 square meters.
314	1,254,191 square meters.
315	2,255,383 square meters.
333/833	89,326 dozen.
334	257,153 dozen of which not more than 36,320 dozen shall be in Category 334–K [2]
335/835	113,147 dozen.
338/339	488,317 dozen.
340	213,146 dozen.
341/840	89,326 dozen.
347/348	381,125 dozen.
350	27,000 dozen.
352	181,818 dozen.
359	652,174 kilograms.
361	515,000 numbers.
369	295,821 kilograms.
810	4,180,637 square meters.
847	75,000 dozen.
Group II	
410, 414, 464, 465, 469, 611, 613–615, 617–622, 624–629, 665, 666, 669 and 670, as a group.	10,033,528 square meters equivalent.
Sublevels in Group II	
410	167,225 square meters.
465	129,600 square meters.
618	1,672,255 square meters.
666	116,306 kilograms.
Group III	
431–436, 438–440, 442–448, 459, 630–654 and 659, as a group.	46,054,093 square meters equivalent.
Sublevels in Group III	
433/434	6,876 dozen.
435	5,129 dozen.
442	8,026 dozen.
443	100,170 numbers.
444	32,665 numbers.
448	6,500 dozen.
459	34,019 kilograms.
633	44,199 dozen.
634	53,687 dozen of which not more than 36,604 dozen shall be in knit coats (Category 634–K) [3] and not more than 17,083 dozen shall be in non-knit coats (Category 634–W) [4].
635	74,080 dozen.
638/639	415,892 dozen.
640	80,225 dozen.
641	34,775 dozen.
643–K/644–K [5]	24,996 numbers.
643–W/644–W [6]	570,689 numbers.
645/646	255,637 dozen.
647	80,737 dozen.
648	57,746 dozen.
659	101,768 kilograms.
Level not in a group	
604	1,518,844 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

[2] Category 334–K: all HTS numbers except 6101.20.0010, 6101.20.0020 and 6112.11.0010.

[3] Category 634–K: only HTS numbers 6101.30.1000, 6101.30.2010, 6.01.30.2020, 6101.90.0030, 6103.23.0036, 6103.29.1010, 6112.12.0010, 6112.19.1010, 6112.20.1010, 6112.20.1030 and 6113.00.0025.

[4] Category 634–W: only HTS numbers 6201.13.4015, 6201.13.4020, 6201.13.4030, 6201.13.4040, 6201.19.0030, 6201.93.2010, 6201.93.3000, 6201.93.3510, 6201.93.3520, 6201.99.0030, 6203.23.0050, 6203.29.2010, 6210.20.1020, 6210.40.1020, 6211.20.1515, 6211.29.2030 and 6211.33.0035.

[5] Category 643–K: only HTS numbers 6103.12.2000, 6103.19.1500 and 6103.19.4050; Category 644–K: only HTS numbers 6104.13.2000, 6104.19.1500 and 6104.19.2060.

[6] Category 643–W: only HTS numbers 6203.12.2010, 6203.12.2020, 6203.19.3000 and 6203.19.4050; Category 644–W: only HTS numbers 6204.13.2010, 6204.13.2020, 6204.19.2000 and 6204.19.3060.

Textile products in the foregoing categories which have been exported to the United States prior to January 1, 1991 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

For the import period January 1 through August 31, 1991, you are directed to charge, for goods exported during 1991, the following amounts to the categories listed below:

Category	Amount to be charged
In Group I	
218	11,937 square meters.
220	23,654 square meters.
237	–0–
313	32,436 square meters.
314	–0–
315	376,733 square meters.
333	192 dozen.
334	1,152 dozen.
335	4,276 dozen.
338	–0–
339	–0–
340	–0–
341	110 dozen.
342	228 dozen.
347	1,830 dozen.
348	2,986 dozen.
350	–0–
352	–0–
359	–0–
360	19,236 numbers.
361	24,000 numbers.
369	–0–
810	218,170 square meters.
833	765 dozen.
835	11,438 dozen.
836	360 dozen.
840	1,641 dozen.
842	4,052 dozen.
843	16,247 numbers.
844	40,778 numbers.
847	23,234 dozen.
In Group II	
410	398 square meters.
464	26 kilograms.
465	13,540 square meters.
611	68,791 square meters.
618	–0–
624	131 square meters
666	–0–
In Group III	
433	1,597 dozen.
434	41 dozen.
435	2,169 dozen.
442	5,502 dozen.
443	32,811 numbers.
444	22,363 numbers.
447	1,000 dozen.
448	6,353 dozen.
459	–0–
630	1,154 dozen.
633	526 dozen.
634	–0–
635	4,754 dozen.
638	–0–
639	–0–
640	–0–
641	–0–
642	4,620 dozen.
643–K [1]	–0–
644–K [2]	–0–
643–W [3]	71,534 numbers.
644–W [4]	50,622 numbers.
645	2,794 dozen.
646	–0–
647	4,013 dozen.
648	2 dozen.
659	837 kilograms.
Level not in a group	
604	–0–

[1] Category 643–K: only HTS numbers 6103.12.2000, 6103.19.1500 and 6103.19.4050.

[2] Category 644–K: only HTS numbers 6104.13.2000, 6104.19.1500 and 6104.19.2060.

[3] Category 643–W: only HTS numbers 6203.12.2010, 6203.12.2020, 6203.19.3000 and 6203.19.4050.

[4] Category 644–W: only HTS numbers 6204.13.2010, 6204.13.2020, 6204.19.2000 and 6204.19.3060.

The conversion factors are as follows:

Category	Conversion factor
341/840	12.1.
433/434	35.2.
638/639	12.96.

The levels set forth above are subject to adjustment in the future according to the provisions of the current bilateral agreements between the Governments of the United States and Romania.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–26447 Filed 10–31–91; 8:45 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations with the Government of Indonesia on Certain Wool Textile Products

October 28, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 4, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–9480. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On September 28, 1991, under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated September 25 and October 3, 1985, as amended, between the Governments of the United States and Indonesia, the United States Government requested consultations with the Government of Indonesia with respect to wool suits in Category 443.

The purpose of this notice is to advise the public that, pending agreement on a mutually satisfactory solution concerning Category 443, the Government of the United States has decided to control imports during the ninety-day period which began on September 28, 1991 and extends through December 26, 1991.

If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, may later establish a specific limit for the entry and withdrawal from warehouse for consumption of textile products in Category 443, produced or manufactured in Indonesia and exported during the prorated period beginning on December 27, 1991 and extending through June 30, 1992, of not less than 25,631 numbers.

A summary market statement concerning Category 443 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 443, under the agreement with the Government of Indonesia, or to comment on domestic production or availability of products included in Category 443, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; attn: Helen L. LeGrande.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 443. Should such a solution be reached in consultations with the Government of Indonesia, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Indonesia

Category 443—Men's and Boys' Wool Suits

September 1991.

Import Situation and Conclusion

U.S. imports of men's and boys' wool suits, Category 443, from Indonesia reached 47,197 units (3,933 dozen) during the year ending in June 1991, 69 percent above the 27,956 units (2,330 dozen) imported during the year ending in June 1990. In the first six months of 1991 imports of Category 443 from Indonesia reached 35,160 units (2,930 dozen), double the 17,607 units (1,467 dozen) shipped during January-June 1990 and 19 percent above their total calendar year 1990 imports.

The sharp and substantial increase in Category 443 imports from Indonesia is causing a real risk of disruption in the U.S. market for men's and boys' wool suits.

U.S. Production, Import Penetration and Market Share

U.S. production of men's and boys' wool suits, Category 443, has declined sharply since 1988, falling to 354,000 dozen in 1990, 25 percent below the 470,000 dozen produced in 1989, and 27 percent below the 482,000 dozen produced in 1988. In contrast, U.S. imports of men's and boys' wool suits, Category 443, increased from 167,000 dozen in 1988 to 195,000 dozen in 1990, a 17 percent increase.

Category 443 imports continue to increase in 1991, surging to 105,000 dozen in the first six months of 1991, 16 percent above the January-June 1990 level.

The ratio of imports to production in Category 443 has risen from 35 percent in 1988 to 55 percent in 1990. The domestic manufacturers' share of the men's and boys' wool suit market fell from 74 percent in 1988 to 65 percent in 1990, a decline of 9 percentage points.

Duty-Paid Value and U.S. Producers' Price

All of Category 443 imports from Indonesia during the first six months of 1991 entered the U.S. under HTSUSA number 6203.11.2000—men's and boys' wool suits, otherthan those containing 30 percent or more by weight of silk. These garments entered the U.S. at duty-paid landed values below U.S. producer prices for comparable suits.

Committee for the Implementation of Textile Agreements

October 28, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable fiber Textile Agreement, effected by exchange of notes dated September 25 and October 3, 1985, as amended, between the Governments of the United States and Indonesia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 4, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 443, produced or manufactured in Indonesia and exported during the period beginning on September 28, 1991 and extending through December 26, 1991, in excess of 16,519 numbers. [1]

Textile products in Category 443 which have been exported to the United States on and after July 1, 1991 shall remain subject to the Group II limit, and its subgroup, established in the directive dated June 4, 1991 for the period July 1, 1991 through June 30, 1992.

Textile products in Category 443 which have been exported to the United States prior to September 28, 1991 shall not be subject to the limit established in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–26448 Filed 10–31–91; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by a nonprofit agency employing persons with severe disabilities.

[1] The limit has not been adjusted to account for any imports exported after September 27, 1991.

EFFECTIVE DATE: December 2, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 30, September 6, 13 and 20, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 42985, 44078, 46602 and 47743) of a proposed additions to the Procurement List.

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the services at a fair market price and the impact of the addition on the current or most recent contractor, the Committee has determined that the services listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the services listed.

c. The action will result in authorizing small entities to provide the services procured by the Government.

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial, Federal Building, 1340 W. 6th Street, Los Angeles, California

Janitorial/Custodial, for the following New Orleans, Louisiana locations:

U.S. Court of Appeals, 600 Camp Street

FDA Lot, St. Charles & Girod Street

Janitorial/Custodial, Maintenance Overhaul and Technical Service Center, 10750 West Grand Avenue, Franklin Park, Illinois

Janitorial/Custodial, Naval and Marine Corps Reserve Center, Akron, Ohio

Janitorial/Custodial, U.S. Army Reserve Center, Washington, Pennsylvania

Mailroom Operation, U.S. Army Corps of Engineers, Pulaski Building, 20 Massachusetts Avenue, Washington, DC

Mailroom Services, Department of Health & Human Services, Food and Drug Administration, Rockville, Maryland

Operation of Postal Service Center, Bolling Air Force Base, Washington, DC

Recyclable Paper Collection, Federal Center, 74 North Washington, Battle Creek, Michigan

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E. R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 91–26438 Filed 10–31–91; 8:45 am]

BILLING CODE 6820–33–M

Procurement List Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 2, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have severe disabilities.

It is proposed to add the following commodities and services to the Procurement List:

Commodities

Line, Multi-Loop
1670–01–107–7651

Robe, Dressing
6532–01–098–8344
6532–01–098–8345

Services

Food Service Attendant
Travis Air Force Base, Californi

Janitorial/Custodial, U.S. Courthouse, Pensacola, Florida
Janitorial/Custodial, Naval Complex, Pensacola, Florida
Janitorial/Custodial, Federal Building, 1st and Oak Streets, Port Angeles, Washington

E. R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 91-26439 Filed 10-31-91; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of the New Orleans CHAMPUS Demonstration Program.

SUMMARY: The Assistant Secretary of Defense for Health Affairs has made arrangements to develop and implement coordinated health care services for CHAMPUS beneficiaries residing in the New Orleans area as defined in Attachment 1. Two new health care programs, CHAMPUS Prime and CHAMPUS Extra, and a referral service, the Health Care Finder program, will be available to all eligible CHAMPUS beneficiaries. Under this demonstration program, Foundation Health Federal Services (FHFS) will be responsible both for the delivery of health care services and the processing of all medical claims except for CHAMPUS eligibles participating in the Program for the Handicapped and eligible beneficiaries under the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA). Beginning with the effective date of this notice, activities under the contract, which commenced on June 7, 1991, will include provisions for enhanced health care benefits, allow for a waiver of the Standard CHAMPUS annual deductible, decrease beneficiary out-of-pocket expenses and improve access and flexibility.

This notice, published in accordance with 32 CFR 199.1(o), informs the public of the changes in normally applicable requirements and procedures relating to this program.

DATES: The implementation start date for delivery of health care services under the above described demonstration program is December 1, 1991.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Office of Coordinated Care (POCC), Aurora, CO 80045-6900.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher La Londe, Office of the Assistant Secretary of Defense for Health Affairs (Health Services Financing), (703) 697-8976.

SUPPLEMENTARY INFORMATION: The New Orleans CHAMPUS Program, called the New Orleans Coordinated Care Program, centers on the establishment and operation by FHFS of a comprehensive network of health care providers organized as CHAMPUS Prime, which resembles a Health Maintenance Organization, and CHAMPUS Extra, which resembles a Preferred Provider Organization, along with a referral service, the Health Care Finder program. All eligible CHAMPUS beneficiaries can choose to enroll in CHAMPUS Prime where they will receive expanded outpatient preventive health care benefits, no deductible and reduced out-of-pocket costs for both inpatient and outpatient services. The CHAMPUS Prime enrollee must stay enrolled in CHAMPUS Prime for one year unless the beneficiary either loses CHAMPUS eligibility or moves outside the New Orleans area. CHAMPUS Prime enrollment continues without re-enrollment past the one year period. Any time after one year, the CHAMPUS Prime member may disenroll. The CHAMPUS eligible who has disenrolled from CHAMPUS Prime may re-enroll at any time; however, any re-enrollment is subject to the same one year enrollment rule.

Enhanced benefits include periodic physical exams, well child care to age 18, health care programs and certain immunizations as recommended by the American Academy of Pediatrics for children, and by the U.S. Public Health Service for adults. There is a waiver of the annual CHAMPUS deductible, and in lieu of the regular cost sharing percentages for CHAMPUS Prime enrollees, outpatient physician services, laboratory and X-Ray services, routine pap smears, ambulance services, eye examinations, home health care, family health services, and ambulatory surgery services require a copayment of $5.00 per visit or occurrence; periodic physical examinations for ages seven and older a $15.00 copayment; outpatient mental health services a $10 copayment for individual visits, $5 copayment for group visits; and emergency room services a $25 copayment, with a $15 copayment for urgent care center use. For active duty dependents, there is no copayment for inpatient services, rather than a copayment of $25 or $8.55 per day, whichever is higher. For retirees and their family members and survivors, the cost share percentage for inpatient services is $75 per day to $750 maximum per admission, rather than $262 per day or 25 percent of billed charges, whichever is less; for inpatient mental health services, the cost share percentage is $50 per day or 25 percent of plan allowable, whichever is less, rather than 25 percent of billed charges.

CHAMPUS Extra provides flexibility and does not require enrollment. Standard CHAMPUS beneficiaries can receive services by going to a doctor, hospital or other medical provider listed in the CHAMPUS Prime and Extra Provider Directory. Under CHAMPUS Extra, there are lower out-of-pocket expenses than Standard CHAMPUS. Once the normal deductible (usually $150 per person or $300 per family per fiscal year) has been met, the required cost share for outpatient services is 5 percent less than the Standard CHAMPUS cost share percentage, and there are reduced out-of-pocket costs for inpatient services. For active duty dependents the cost share percentage for outpatient services is 15 percent rather than 20 percent, and for retirees and their family members and survivors, the cost share percentage for outpatient services is 20 percent rather than 25 percent. For active duty dependents, there is no copayment for inpatient services, rather than a copayment of $25 or $8.55 per day, whichever is higher. For retirees and their family members and survivors, the cost share percentage for inpatient services is $125 per day or 25 percent of plan allowable, whichever is less, rather than $262 per day or 25 percent of billed charges, whichever is less; for inpatient mental health services the cost share percentage is $50 per day or 25 percent of plan allowable, whichever is less, rather than 25 percent of billed charges.

The New Orleans Coordinated Care Demonstration Program will provide twenty-four hour, seven-days-a-week, 365 days-a-year, Health Care Finder services for all CHAMPUS beneficiaries residing in the New Orleans area. Health Care Finders are health care professionals, usually registered nurses, who help the beneficiary find the necessary and appropriate care they need. A CHAMPUS Service Center, located at the Navy Medical Clinic—New Orleans also has beneficiary service representatives available during normal business hours to assist with such issues as benefit questions, program procedures and policy, and claim status or questions.

Pre-admission certification is required for all beneficiary groups, i.e., CHAMPUS Prime, CHAMPUS Extra and Standard CHAMPUS, for non-

emergency medical/surgical inpatient care and non-emergency inpatient mental health services. Outpatient mental health treatment plans are required to be approved before the seventh visit and every ten visits thereafter from both Network and Standard providers. All Network and Standard providers must obtain admission certification within 24 hours for inpatient emergency medical/surgical and mental health services. In addition, all Network and Standard providers must obtain prior authorization certification for ambulatory surgery and other selected outpatient services, as listed in Attachment 2, for CHAMPUS Prime, CHAMPUS Extra and Standard CHAMPUS beneficiaries. All CHAMPUS providers will be notified by the Contractor of any changes to the list of selected outpatient services. Requests for payment of service may be denied when prior authorization is required and not obtained. Beneficiaries will be held harmless in all instances where providers fail to seek prior authorization for covered services as required. With respect to services excludable from payment because they are medically unnecessary, the provisions of 32 CFR 199.4(h) shall apply to the FHFS program as they do to the Peer Review Organization program under that section.

This notice is issued under CHAMPUS demonstration project authority. We are considering development of a revision under the authority of title 10, U.S.C., sections 1097 and 1099 (and other provisions of the law) to the CHAMPUS Regulation, which would establish under permanent regulatory authority provisions similar to those described in this notice. If we decide to proceed with this revision, we will issue a proposed rule for public comment. If no such regulatory change is adopted, the duration of this notice shall be until February 29, 1996, the date that the provision of health care services is scheduled to end under this contract.

Dated: October 29, 1991.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

The New Orleans Area

New Orleans Coordinated Care Demonstration Project

The New Orleans Area is defined by specific zip codes that are included in the Area. The New Orleans Area includes all zip codes that have 700 or 701 as the first three digits plus the following zip codes.

70420	70447	70460
70431	70448	70461
70433	70452	70463
70434	70457	70464
70437	70458	
70445	70459	

The listed procedure codes may be found in the Physicians' Current Procedural Terminology (CPT) Manual. Copies of this Manual are available from the American Medical Association, P.O. Box 10946, Chicago, IL, 60610.

ATTACHMENT 1

POS	Definition	Procedure codes
1	Inpatient facilities	Medical/Surgical: All inpatient services HCFA 1500 CPT4 codes 10000–69979
C	Residential Treatment Center.	Mental Health: ICD9 diagnoses codes 29000–31900 UB82 revenue codes 114–204
2,B	Outpatient facilities Ambulatory Surgical Center.	Med/Surg: UB82 revenue codes 258 260,261,269 360–379 490–499 610–619 750–759 790–799 Mental Health: 90800–90899 92870–92871 PA required after six visits
3	Office	HCFA 1500 CPT4 codes E0100 thru E1699 06870 thru 06893 06895 thru 06919 06922 06923 06926 06927 06931 06935 thru 06937 06939 thru 06943 19160 thru 19240 20605 21010 thru 21011 21050 21060 21240 21242 21243 21480 21485 21490 21740 31641 33245

ATTACHMENT 1—Continued

POS	Definition	Procedure codes
		33940 thru 33945 36260 thru 33262 38230 thru 38240 38245 38246 38250 38255 38260 38265 40820 42145 43227 43255 43258 43272 44366 44369 44391 44393 45317 45320 45334 45336 45382 thru 45383 46917 47135 50080 thru 50081 50590 52214 52224 52234 thru 52235 52240 52285 52337 54057 56501 56515 57061 57065 57513 64550 thru 64595 65710 thru 65750 65855 66821 66983 thru 66985 67031 67105 67120 67145 67228 68760 69930 70540 70551 70552 71550 72141 thru 72144 72146 thru 72149 72196 73220 73720 73721 74181 75552 76400 90100 thru 90170 92065 92502 thru 92599 99180 thru 99182
4	Home	HCFA 1500 CPT4 codes 90100–90170
All POS	All place of services.	Med/Surg:

ATTACHMENT 1—Continued

POS	Definition	Procedure codes
		HCFA 1500 CPT4 codes
		11200–11446
		11950–11971
		14000–14300
		15000–15730
		15500–15770
		15780–15787
		15820–15839
		17000–17201
		19140
		19318
		19328–19499
		21210–21254
		30400–30450
		36520
		41800–41899
		59105–59106
		59840–59852
		67916–67917
		67923–67930
		67950–67975
		69300–69301
		70336
		73221
		90801–90899
		90825–90830
		90830
		90835
		90841
		90843
		90844
		90847
		90849
		90853
		90870
		90871
		90882
		90887
		90889
		90899
		90780–90781
		92870–92871
		93797
		97010–97799
		99590–99591
		HCFA 1500 HCPCS Codes
		L5000–L7510
		L8100–L8230
		L8400–L9999
		V2620–V2629

[FR Doc. 91–26412 Filed 10–31–91; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER92–118–000, et al.]

Florida Power Corporation, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 24, 1991.

Take notice that the following filings have been made with the Commission:

1. Florida Power Corp.

[Docket No. ER92–118–000]

Take notice that on October 11, 1991, Florida Power Corporation ("Florida Power") filed an amendment to its rate schedule for the partial requirements service which Florida Power provides to Seminole Electric Cooperative ("SECI") under stratified rates. The amendments provide for (a) a moratorium against changes in non-fuel rates (either through a rate filing by Florida Power or a complaint by SECI) to be effective prior to November 1, 1992, (b) a moratorium against changes in the existing 12 coincident peaks ("12 CF")/stratification methodology to be effective before January 1, 1996, (c) a provision that SECI and Florida Power will consult in the implementation of stratified rates prior to rate changes, and (d) changes in stratification to be effective as of January 1, 1991. The restratification is expected to reduce Florida Power's revenues from SECI in 1991 by approximately $1.3 million.

Also included with this filing are amendments to rate schedules for service to the Cities of St. Cloud and Kissimmee, which take contract demand service under stratified rates, in order to give them the benefit of the same changes in stratification which it negotiated with SECI and which are expected to reduce Florida Power's 1991 revenues from Kissimmee and St.Cloud by approximately $70,000 and $400,000, respectively.

Florida Power requests waiver of the notice requirement in order to permit this filing to become effective January 1, 1991. The fact that the filing is a rate reduction supports a finding of good cause to allow the waiver.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Green Mountain Power Corp.

[Docket No. ER92–105–000]

Take notice that on October 7, 1991, Green Mountain Power Corporation (GMP) tendered for filing an unexecuted Generation Contract dated as of April 30, 1986, pursuant to which GMP proposed to sell capacity and associated energy from GMP's Berlin No. 5 Gas Turbine plant to Vermont Public Power Supply Authority (as agent for certain municipal and rural electric cooperative systems in Vermont) beginning May 1, 1986, and a Sales Agreement dated as of May 1, 1989, pursuant to which GMP proposed to sell system energy, unit power, and system capacity and energy to VPPSA, beginning May 1, 1989. GMP has requested that the FERC waive its regulations in order to permit each of these agreements to be made effective concurrently with the commencement of service thereunder.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Green Mountain Power Corp.

[Docket No. ER92–106–000]

Take notice that on October 7, 1991, Green Mountain Power Corporation (GMP) tendered for filing an unexecuted Sales Agreement dated as of June 1, 1990, pursuant to which GMP agreed to sell capacity and/or energy available from time to time to Washington Electric Cooperative, Inc. (WEC). GMP has requested that the FERC waive its regulations in order to permit the Sales Agreement to be made effective as of June 1, 1990.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Green Mountain Power Corp.

[Docket No. ER92–108–000]

Take notice that on October 7, 1991, Green Mountain Power Corporation (GMP) tendered for filing a Sales Agreement dated as of October 1, 1989, pursuant to which GMP has agreed to sell capacity and/or energy available from time to time to Massachusetts Municipal Wholesale Electric Company. GMP has requested that the FERC waive its regulations in order to permit the Sales Agreement to be made effective as of October 1, 1989.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Co.

[Docket No. ER92–112–000]

Take notice that on October 8, 1991, Southern California Edison Company (Edison) tendered for filing the Edison-Vernon Firm Transmission Service Agreement for Vernon's Purchase from Salt River Project.

Under the Agreement, Edison agrees to make firm transmission service available to Vernon until midnight, December 31, 1994, from the Victorville-Lugo Midpoint to Vernon's Point of Delivery per the Firm Transmission Service Agreement. This Firm Transmission Service Agreement is resource-specific. Service is provided only for the energy and capacity delivered to Edison per the terms of the Agreement, and may not be used by Vernon for any other purpose. The maximum capacity to be transmitted for Vernon will be 20 megawatts.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Vernon, California.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corp.

[Docket No. ER92-127-000]

Take notice that Wisconsin Public Service Corporation on October 21, 1991, tendered for filing a supplement to the following service agreement:

FERC Electric Tariff Original Volume No. 3, the October 29, 1987 Partial Requirements Load Pattern Service Agreement with the Consolidated Water Power Company.

This supplement will revise the contract demand quantities in accordance with Exhibit 1 of the service agreement, Paragraph 6, *Requirements.*

Copies of this filing were served upon the Consolidated Water Power Company and the Public Service Commission of Wisconsin.

This supplement is to be effective on and after January 1, 1992.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Green Mountain Power Corp.

[Docket No. ER92-107-000]

Take notice that on October 7, 1991, Green Mountain Power Corporation (GMP) tendered for filing the following agreements providing for the sale of capacity and/or energy to Public Service Company of New Hampshire:

1. Capacity Sales Agreement dated January 1, 1989, providing for sale of capacity available to GMP from time to time.

2. A series of letter agreements providing for the resale to PSNH of certain capacity and energy which GMP had purchased from Rochester Gas and Electric Company.

3. Letter agreement dated August 25, 1989, providing for the resale to PSNH of peaking capacity and energy purchased by GMP from the New York Power Authority.

GMP has requested that the FERC waive its regulations in order to permit each of these agreements to be made effective concurrently with the commencement of service thereunder.

Comment date: November 7, 1991 in accordance with Standard Paragraph E at the end of this notice.

8. Green Mountain Power Corp.

[Docket No. ER92-104-000]

Take notice that on October 7, 1991, Greer Mountain Power Corporation (GMP) tendered for filing a Sales Agreement dated as of February 1, 1989, pursuant to which GMP agreed to sell capacity and energy available from time to time to Vermont Electric Generation and Transmission Cooperative, Inc., and an unexecuted Addendum thereto dated as of April 1, 1991. GMP has requested that the FERC waive its regulations in order to permit the Sales Agreement to be made effective as of February 1, 1989, and to permit the Addendum to be made effective as of April 1, 1991.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

9. Green Mountain Power Corp.

[Docket No. ER92-109-000]

Take notice that on October 7, 1991, Green Mountain Power Corporation (GMP) tendered for filing a Letter of Agreement dated August 8, 1990, pursuant to which GMP sold 50 MW of capacity and associated energy to the New York Power Authority during May 1990. GMP has requested that the FERC waive its regulations in order to permit the Letter of Agreement to be made effective as of May 1, 1990.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

10. System Energy, Inc.

[Docket Nos. ER89-678-000, EL90-16-000 and EL90-45-000]

Take notice that on October 15, 1991, System Energy Inc. in response to the Federal Energy Regulatory Commission's settlement in the above-referenced dockets submitting the following items:

(1) Attachment 1, Report of Revised Accounting
(2) Attachment 2, Report of Customer Refunds, July 15, 1991
(3) Attachment 3, Report of Previous Customer Refunds, January 15, 1991
(4) Attachment 4, Detail of GGNS Unit 2 Inventory Transferred, to Plant Held for Future Use

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

11. Orange and Rockland Utilities, Inc.

[Docket No. ER92-123-000]

Take notice that on October 15, 1991, Orange and Rockland Utilities, Inc. ("Orange and Rockland") tendered for filing pursuant to the Federal Energy Regulatory Commission's order issued January 15, 1988, in Docket No. ER88-112-000, an executed Service Agreement between Orange and Rockland and Grosso Materials, Inc.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

12. Pennsylvania Power Co.

[Docket No. ER92-126-000]

Take notice that on October 18, 1991, Pennsylvania Power Company ("Penn Power") pursuant to 18 CFR 35.13 tendered for filing proposed changes in its PFC Electric Service Tariffs Nos. 30, 31, 32, 33 and 34 to the Pennsylvania boroughs ("Boroughs") of New Wilmington, Wampum, Zelienople, Ellwood City and Grove City, respectively. The filing proposes an increase in the State Tax Adjustment Surcharge (Rider 1) to 3.21% effective August 24, 1991. The revenue effect of this change is to increase revenues from the municipal resale class by $262,401 or 3.14% for the test year ending July 31, 1992.

The five municipal resale customers served by Penn Power entered into settlement agreements effective as of September 1, 1984. These agreements provide that these customers will be charged applicable retail rates as may be in effect during the terms of the agreements. Changes in rates were agreed to become effective as to these resale customers simultaneously with changes approved by the Pennsylvania Public Utility Commission ("Pa. PUC"). The proposed change has been implemented as to Penn Power's retail customers pursuant to Pa. PUC orders and Federal Energy Regulatory Commission through a Secretarial letter dated December 14, 1984 in Docket Nos. ER77-277-007 and ER81-779-000. Waivers of certain filing requirements have been requested to implement the rate changes in accordance with the settlement agreements.

Copies of the filing were served upon Penn Power's jurisdictional customers and the Pa. PUC.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

13. Tampa Electric Co.

[Docket No. ER92-128-000]

Take notice that on October 21, 1991, Tampa Electric Company (Tampa Electric) tendered for filing a Letter of Commitment providing for the sale by Tampa Electric to the Utilities Commission, City of New Smyrna Beach, Florida (New Smyrna Beach) of up to 20 megawatts of capacity and energy from Tampa Electric's Big Bend Station coal-fired generating resources. The Letter of Commitment is submitted as a supplement to Service Schedule D Under Tampa Electric's agreement for

interchange service with New Smyrna Beach.

Tampa Electric proposes an effective date of January 1, 1992, for the Letter of Commitment.

Copies of the filing have been served on New Smyrna Beach and the Florida Public Service Commission.

Comment date: November 7, 1991, in accordance with Standard Paragraph E end of this notice.

14. Public Service Co. of Oklahoma

[Docket No. ER91-496-000]

Take notice that on October 18, 1991, Public Service Company of Oklahoma (PSO) tendered for filing an Amendment to its Amended Agreement for Interchange of Electric Power and Energy Between PSO and Grand River Dam Authority (GRDA). PSO states that this amendment is in response to staff's questions on the capacity and planned use of facilities provided to Grand River Dam Authority under the Agreement.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

15. Public Service Co. of Mexico

[Docket No. ER 92-114-000]

Take notice that on October 7, 1991, Public Service Company of New Mexico (PNM) tendered for filing a Notice of Termination of the Block Energy Sales Agreement for the sale of interruptible block energy by PNM to San Diego Gas and Electric Company (SDG&E) (PNM Rate Schedule FERC No. 63, Supplement # 3). Termination of that agreement is to be effective as of October 1, 1991. PNM requests waiver of the applicable requirements.

Copies of the filing have been served upon SDG&E and the New Mexico Public Commission.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

16. Pacific Gas and Electric Co.

[Docket No. ER91-505-001]

Take notice that on October 9, 1991, Pacific Gas and Electric Company (PG&E) tendered for filing A Transmission Rate Schedule (TRS) for certain transmission and other services to be provided thereunder to the Transmission Agency of Northern California (TANC). PG&E states that this filing was made in compliance with the Commission's August 26, 1991 order.

TANC is a joint powers agency composed of the California cities of Alameda, Biggs, Gridley, Healdburg, Lodi, Lompoc, Palo Alto, Redding, Reseville, Santa Clara, and Ukiah, and the Plumas-Sierra Rural Electric Cooperative, the Sacramento Municipal Utility District, the Modesto Irrigation District, and the Turlock Irrigation District. PG&E currently provides no services to TANC, but does provide utility services to all TANC Members.

Among other this, the TRS provides: (1) 300 MW of long-term Bidirectional Transmission Service between specified Points of Receipt and Delivery; and (b) two firming services, prespecified Mitigation and Replacement Power, which are intended to mitigate the effects of curtailments of transmission service until certain reinforcements to PG&E's system are installed. The TRS also provides procedures for the installation of those reinforcements. The services, rates and terms and conditions contained in the TRS were negotiated and agreed to by TANC and PG&E in the South-of-Tesla Principles (SOTP).

PG&E has requested a waiver of the Commission's notice and filing requirements, as necessary for the full implementation of the TRS as filed.

Copies of the filing have been served upon TANC, the California Public Utilities Commission, and all parties to Docket No. EL91-9-000, ER91-344, and ER91-505-000. In addition, a copy PG&E further states that a copy of this filing is available for public inspection in a convenient form and place during normal business hours at PG&E's principle office, located in San Francisco, California.

Comment date: November 4, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26350 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER92-103-000, et al.]

Green Mountain Power Corp., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 23, 1991.

Take notice that the following filings have been made with the Commission:

1. Green Mountain Power Corp.

[Docket No. ER92-103-000]

Take notice that on October 7, 1991, Green Mountain Power Corporation tendered for filing a Sales Agreement dated as of December 1, 1990, pursuant to which GMP will sell system energy which may be available from time to time to Niagara Mohawk Power Corporation. GMP has requested that the FERC waiver its regulations in order to permit the Sales Agreement to be made effective as of December 1, 1990.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Michigan Power Co.

[Docket No. ER90-297-002]

Take notice that on October 11, 1991, Michigan Power Company tendered its compliance refund report in this docket in compliance with the Commission's letter order issued on September 10, 1991.

Comment date: November 4, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Ultrapower-Malaga Fresno

[Docket No. QF86-372-003]

On October 10, 1991, Ultrapower-Malaga Fresno (Applicant), of 16845 Von Karmon Avenue, Irvine, California 92714, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

By order issued March 11, 1986, Ultrapower Inc., 34 FERC ¶ 62,493 (1986) was granted certification for a 26.5 MW small power production facility. On October 10, 1991, Ultrapower-Malaga Fresno filed an application for recertification to reflect a change in the ownership structure. As a general partner C II Woodpower II, Inc. (Woodpower II) will have a 50% ownership interest in the facility. Woodpower II is indirectly owned by Baltimore Gas & Electric Company, an investor owned electric utility.

Comment date: December 2, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Ultrapower-Rocklin

[Docket No. QF86-373-003]

On October 10, 1991, Ultrapower-Rocklin (Applicant), of 16845 Von Karman Avenue, Irvine, California 92714 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

By order issued March 11, 1986, Ultrapower Inc., 34 FERC ¶ 62.494 (1986) was granted certification for a 25 MW small power production facility. On October 10, 1991 Ultrapower-Rocklin filed an application for recertification to reflect a change in ownership from Ultrapower-Placer to Ultrapower-Rocklin and a change in the ownership structure. As general partners CD Rocklin I, Inc., CD Rocklin II Inc., and CD Rocklin III, Inc. will have 50% ownership interest in the facility. CD Rocklin I, II and III are indirectly owned by Baltimore Gas & Electric Company, an investor owned electric utility.

Comment date: December 2, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. Scranton Energy Partners

[Docket No. QF92-12-000]

On October 15, 1991, Scranton Energy Partners of 8925 Rehco Road, San Diego, California 92121, submitted for filing an application for certification of a facility as a qualifying cogeneration, or in the alternate, as a qualifying small power production facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located between Boulevard Avenue and Olyphant Street in Scranton, Pennsylvania. Steam recovered from the facility will be sold to Community Central Energy Corp., which is the district heating system in Scranton, Pennsylvania. The net electric power production capacity of the facility will be 100 MW. The primary energy source will be waste culm. Installation of the facility is expected to commence in March 1993.

Comment date: December 2, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. Southwestern Electric Power Co.

[Docket No. ER92-102-000]

Take notice that Southwestern Electric Power Company (SWEPCO), on October 7, 1991, tendered for filing a Letter Agreement (Agreement), dated August 19, 1991, between SWEPCO and Sam Rayburn G & T Electric Cooperative, Inc. (SRG&T).

The Agreement provides for the short-term sale of capacity and associated energy by SWEPCO to SRG&T on a month-to-month basis, beginning December 1, 1991 and ending November 30, 1992.

SWEPCO requests that the Agreement be permitted to become effective as of December 1, 1991 and therefore requests waiver of the Commission's Notice Requirements.

Copies of the filing were served upon SRG&T and the Public Utility Commission of Texas.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp Electric Operations

[Docket No. ER92-17-000]

Take notice that on October 9, 1991, PacifiCorp Electric Operations tendered for filing an amendment to its October 1, 1991, filing in this docket.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. Minnesota Power & Light Co.

[Docket No. EL92-7-000]

Take notice that on October 16, 1991, Minnesota Power & Light Company (Minnesota Power) filed a Petition for Waiver of the Commission's Fuel Adjustment Clause Regulations to permit Minnesota Power to recover the costs associated with the buy-out of a Coal Supply Agreement. Minnesota Power has requested that, pursuant to 18 CFR 385.207, it be granted a waiver of or deviation from the provisions of 18 CFR 35.14(a)(10). This waiver requests is proposed to become effective on January 1, 1992.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

9. Arkansas Power & Light Co.

[Docket No. ER92-117-000]

Take notice that Arkansas Power & Light Company (AP&L) tendered for filing October 11, 1991, a proposed Agreement for wholesale Power Service (Agreement) between AP&L and North Arkansas Electric Cooperative (Customer). The proposed Agreement supersedes and replaces an existing agreement for the customer's power requirements. The proposed Agreement reduces the rates that would have become effective under the existing agreement and extends the term of service until at least December 31, 2000.

The proposed Agreement will effect a savings for the Customer.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Co.

[Docket No. ER92-116-000]

Take notice that on October 11, 1991, Arizona Public Service Company (APS) tendered for filing Economy Energy Agreements (Agreements) with the following entities: (1) Turlock Irrigation District; (2) the City of Glendale; (3) the City of Burbank; (4) the City of Riverside; (5) Overton Power District No. 5; and (6) Valley Electric Association (collectively "Customers").

APS requests that these Agreements become effective when accepted for filing as rate schedules by the Commission.

Sales of economy energy by APS to the Customers under the proposed Agreements are to be priced on a bifurcated rate consisting of (1) the actual variable cost incurred, plus (2) an adder not to exceed a proposed ceiling adder based on the fixed costs associated with the facilities most likely to be used to produce the required energy.

Copies of this filing have been served upon the Customers, the Arizona Corporation Commission, the California Public Utility Commission, and the Nevada Public Service Commission.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp Electric Operations

[Docket No. ER92-110-000]

Take notice that PacifiCorp Electric Operations (PacifiCorp), on October 8, 1991, tendered for filing a Draft Lost Creek Transmission Service Agreement (Draft Agreement) between PacifiCorp Electric Operations (PacifiCorp) and Bonneville Power Administration (Bonneville).

Under terms of the Draft Agreement, PacifiCorp provides transmission services for the transfer of power and energy to and from the Lost Creek Hydroelectric Project for the account of Bonneville.

PacifiCorp requests waiver of the Commission's regulations in order to allow an effective date of October 1, 1978 to be assigned to the Draft Agreement.

Copies of this filing were supplied to Bonneville Power Administration and the Public Utility Commission of Oregon.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

12. Central Power and Light Co.

[Docket No. ER92-101-000]

Take notice that on October 7, 1991, Central Power and Light Company (CPL) tendered for filing an Agreement for Firm Transmission Service between CPL and Texas Municipal Power Agency (TMPA). The Agreement provides for transmission service across CPL facilities between four TMPA member-cities and the Texas-New Mexico Power Company. The Agreement follows an agreement between TNP and TMPA cities of Bryan, Denton, Garland and Greenville, Texas by which TNP will purchase firm generating capacity from the cities.

CPL requests an effective date of June 1, 1988 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing were served upon TMPA and the Public Utility Commission of Texas.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

13. Electric Energy, Inc.

[Docket No. ER92-100-000]

Take notice that on October 7, 1991, Electric Energy, Inc. (EEInc.) tendered for filing Modification No. 14 to the Power Contract between EEInc. and the United States Department of Energy (DOE) and a Letter Supplement amending the Power Supply Agreement between EEInc. and its four Sponsoring Companies, Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), Kentucky Utilities Company (KU) and Union Electric Company (UE). EEInc. requests an effective date of October 15, 1991 for each of the agreements, and has therefore requested waiver of the Commission's notice requirements.

Copies of the filing have been served on DOE, the four Sponsoring Companies and the Illinois Commerce Commission. Copies are also available for inspection at EEInc.'s offices in Joppa, Illinois.

Comment date: November 6, 1991, in accordance with Standard Paragraph E end of this notice.

14. Florida Power & Light Co.

[Docket No. ER92-98-000]

Take notice that Florida Power & Light Company, on October 7, 1991, tendered for filing the following agreements: Hendry 138 kV Interconnection Agreement Among Florida Power & Light Company and Florida Municipal Power Agency and the City of Clewiston, Florida; Deland-Deland East 115 kV Interconnection Agreement Between Florida Power & Light Company and Florida Power Corporation; Interconnection Agreement Among Florida Power & Light Company and Florida Keys Electric Cooperative Association, Inc. and the Utility Board of the City of Key West; Interconnection Agreement Among Florida Power & Light Company, United States Sugar Corporation and the City of Clewiston; Agreement to Provide Metering Information Among Florida Power & Light Company, Seminole Electric Cooperative, Inc. and Lee County Electric Cooperative, Inc.; Agreement for Improvements to and Reactivation of FPL's Nassau Substation Between Jacksonville Electric Authority and Florida Power & Light Company; Letter Agreement Regarding Transmission Facility Modification Between the Utilities Commission, City of New Smyrna Beach and Florida Power & Light Company.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

15. Florida Power & Light Co.

[Docket No. ER92-99-000]

Take notice that on October 7, 1991, Florida Power & Light Company (FPL) tendered for filing a document entitled Amendment Number Twenty-Two to Revised Agreement to Provide Specified Fort Pierce Utilities Authority (Rate Schedule FERC No. 68). FPL requests that the Amendment be made effective as of October 2, 1991.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice

16. Idaho Power Co.

[Docket No. ER92-95-000]

Take notice that on October 7, 1991, Idaho Power Company tendered for filing, Agreements between Bonneville Power Administration and Idaho Power Company:

Letter Agreement, dated August 14, 1990, Energy Exchange BPA No. 92666.

Agreement executed by the United States Department of the Interior acting by and through the Bonneville Power Administration and utilities in the Pacific Northwest—No. 14-03-73155, dated January 13, 1969.

Letter Agreement, dated September 22, 1977, BPA Contract No. 14-03-79166 and Amendatory Agreement No. 1, dated October 9, 1980.

Letter Agreement, dated September 12, 1978, between Bonneville Power Administration and Idaho Power Company.

Letter Agreement, dated December 30, 1987, between Bonneville Power Administration and Idaho Power Company.

Letter Agreement, dated December 10, 1968, between Bonneville Power Administration and Idaho Power Company and Montana Power Company.

Letters of Agreement with Pacific Power and Light Company, The Montana Power Company, The Washington Water Power Company and Utah Power and Light Company, dated July 11, 1975, Tapping of an Interconnecting 230 kV Transmission Line.

Revised Exhibits to the Transmission Services Agreement, dated June 6, 1989, BPA No. DE-MS79-89BP92383.

Amendment to the Agreement for Supply of Power and Energy, dated October 15, 1982.

Revised Exhibits to the Agreement for Supply of Power and Energy, dated February 23, 1989.

Idaho Power has requested waiver of the notice provisions of § 35.3 of the Commission's Regulations in order to permit the Agreements to become effective on their respective execution dates.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

17. Idaho Power Co.

[Docket No. ER92-94-000]

Take notice that on October 7, 1991, Idaho Power Company tendered for filing, Agreements, between Bonneville Power Administration and Idaho Power Company:

Letter Agreement, dated August 14, 1990, Energy Exchange BPA No. 92666.

Agreement executed by the United States Department of Interior for acting by and through the Bonneville Power Administration and utilities in the Pacific Northwest No. 14-03-73155, dated January 13, 1959.

Letter Agreement, dated September 22, 1977, BPA Contract No. 14-03-79166 and Amendatory Agreement No. 1, dated October 9, 1980.

Letter Agreement, dated December 30, 1987, between Bonneville Power Administration and Idaho Power Company.

Letter Agreement, dated December 10, 1968, between Bonneville Power Administration and Idaho Power Company and Montana Power Company.

Letters of Agreement with Pacific Power and Light Company, The Montana Power Company, The Washington Water Power Company and Utah Power and Light Company, dated July 11, 1975, Tapping of an Interconnecting 230 kV Transmission Line.

Revised Exhibits to the Transmission Services Agreement, dated June 6, 1989, BPA No. DE-MS79-89BPP92383.

Amendment to the Agreement for Supply of Power and Energy, dated October 15, 1982.

Revised Exhibits to the Agreement for Supply of Power and Energy, dated February 23, 1989.

Idaho Power has requested waiver of the notice provisions of the Commission's Regulations in order to permit the Agreements to become effective on their respective execution dates.

Comment date: November 6, 1991, in accordance with Standard Paragraph E end of this notice.

18. Central Louisiana Electric Co.

[Docket No. ER92-97-000]

Take notice that on October 7, 1991, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing the following contracts pursuant to the Commission's August 2, 1991 Order in Central Maine Power Company, Docket No. ER91-457-000:

1. Electric System Interconnection Agreement between CLECO and the City of Natchitoches, Louisiana; effective September 21, 1989.

2. Electric System Interconnection Agreement between CLECO and the City of Morgan City, Louisiana; effective July 17, 1987.

3. Amendment No. 1 to Electric System Interconnection Agreement between CLECO and the City of Morgan City, Louisiana, effective July 17, 1987; Termination Notice effective June 1, 1988.

4. Contract for Sale of Special Energy by CLECO to the City of Morgan City, Louisiana; effective July 21, 1987; Termination Notice effective September 30, 1989.

5. Contract for Sale of Special Energy by CLECO to the City of Alexandria, Louisiana, effective January 1, 1989.

6. Replacement of Section 3.1 of Service Schedule LRE, dated August 25, 1976 of the Electric System Interconnection Agreement between CLECO and the City of Lafayette, Louisiana; effective April 6, 1989.

CLECO has requested that the Commission waive its notice and filing requirements to permit each of these agreements and notices to become effective in accordance with their terms. CLECO has served copies of the filing on the affected customers and on the Louisiana Public Service Commission.

Comment date: November 6, 1991, in accordance with Standard paragraph E end of this notice.

19. PacifiCorp Electric Operations

[Docket No. ER91-494-000]

Take notice that on October 11, 1991, PacifiCorp Electric Operations (PacifiCorp) in accordance with the Commission's Order dated September 13, 1991, tendered for filing:

- September 16, 1983 letter of Western Area Power Administration (Western) to Utah Power & Light Company (UP&L) concerning Contract No. 14-060400-2435 (Interconnection Contract), PacifiCorp Rate Schedule FERC No. 262;
- October 6, 1983 letter of Western to UP&L concerning Contract No. 14-06-400-2470, PacifiCorp Rate Schedule No. 284;
- Supplement No. 1 to Contract No. 14-06-400-3817 between Western and UP&L dated November 6, 1984;
- Statements BG and BH for PacifiCorp Rate Schedule FERC No. 262 for Contract Years 1986 and 1987;
- Statements BG and BH for PacifiCorp Rate Schedule FERC No. 262 for Contract Years 1988 and 1989;
- Revision Nos. 8, 9, and 10 of Exhibit B to the Interconnection Contract;
- A rate sheet for PacifiCorp Rate Schedule FERC No. 262.

Copies of this amendment to PacifiCorp's filing have been supplied to Western, the Public Utility Commission of Oregon and the Utah Public Service Commission.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

20. New England Power Co.

[Docket No. ER92-113-000]

Take notice that on October 9, 1991, New England Power Company (NEP) tendered for filing amendments to its FERC Electric tariff, Original Volume No. 3 that would consolidate its rates and provide for additional services under the tariff.

NEP states that the proposed amendments are necessary to establish consistency in rates and enhance services for customers of wheeling services.

According to NEP, the proposed amendments will consolidate NEP's current four tiered rate structure into two rates, expand the availability of service, establish short term wheeling rates, eliminate the current transmission rate discount, and clarify the priority of service under the tariff.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

21. Portland General Electric Co.

[Docket No. ER92-115-000]

Take notice that Portland General Electric Company (PGE) on October 10, 1991, tendered for filing its Average System Cost (ASC) as calculated by PGE and determined by the Bonneville Power Administration under the revised ASC Methodology which became effective on October 1, 1984. This filing includes PGE's revised appendix 1, Exhibit C of the Residential Purchase and Sale Agreement.

PGE states that the revised appendix 1 shows the ASC to be 34.52 mills/kWh. The Bonneville Power Administration determined the ASC rate for PGE to be 33.62 mills/kWh.

Copies of the filing have been served on the persons named in the transmittal letter as included in the filing.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

22. Florida Power & Light Co.

[Docket No. ER92-120-000]

Take notice that Florida Power & Light Company (FPL) on October 15, 1991, tendered for filing the DCRR Facility Parallel Operation Agreement Between Florida Power & Light Company and Florida Power Corporation. FPL requests that the agreement be made effective November 1, 1991.

Comment date: November 6, 1991 in accordance with Standard Paragraph E at the end of this notice.

23. Mississippi Power Co.

[Docket No. ER92-122-000]

Take notice that on October 15, 1991, Mississippi Power Company tendered for filing proposed changes in its FERC Electric Service Tariff. The proposed changes do not change the rates to be charged under the tariff but instead expand the applicability of the tariff and amend the terms and conditions of service.

The reason for the proposed changes are to permit the Company to serve all wholesale, all-requirements customers under the tariff; to provide for longer notice of termination; and to clarify and amend the terms and conditions of the tariff to comport with present practice.

Copies of the filing were served upon the public utility's jurisdictional customers and upon the Mississippi Public Service Commission.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

24. The Montana Power Co.

[Docket No. ER92-121-000]

Take notice that on October 15, 1991, The Montana Power Company (Montana) tendered for filing Revision No. 1 to Rate Schedule FERC No. 175, the General Transfer Agreement Between The Montana Power Company and the Bonneville Power Administration. Montana requests that the Commission (a) accept the rate schedule for filing, to be effective on October 1, 1991; and (b) grant a waiver of notice pursuant to 18 CFR 35.11, so as to allow the filing of the rate schedule less than 60 days prior to the date on which service under the Agreement is commenced.

A copy of the filing was served upon the Bonneville Power Administration.

Comment date: November 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26351 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-111-000, et al.]

Texas Gas Transmission Corporation, et al.; Natural gas certificate filings

October 24, 1991.

Take notice that the following filings have been made with the Commission:

1. Texas Gas Transmission Corp.

[Docket No. CP92-111-000]

Take notice that on October 18, 1991, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP92-111-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for American Central Gas Marketing Company, a shipper of natural gas, under the blanket certificate issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas states that, pursuant to an agreement dated August 23, 1991, under its Rate Schedule IT, it proposes to transport up to 30,000 MMBtu per day equivalent of natural gas. Texas Gas indicates that it would transport 30,000 MMBtu on an average day and 10,950,000 MMBtu annually. Texas Gas further indicates that the gas would be transported from various receipt points on Texas Gas' system and would be redelivered in Louisiana.

Texas Gas advises that service under § 284.223(a) commenced September 1, 1991, as reported in Docket No. ST91-10369.

Comment date: December 9, 1991, in accordance with Standard Paragraph G at the end of this notice.

2. Questar Pipeline Co.

[Docket No. CP91-3204-000]

Take notice that on September 26, 1991, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP91-3204-000 an application pursuant to section 7(b) of the Natural Gas Act for authority to abandon firm transportation service provided to Panhandle Eastern Pipe Line Company (Panhandle) under Questar's Rate Schedule X-17 to Original Volume No. 3 of its FERC Gas Tariff, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In consideration of a June 15, 1990, letter from Panhandle notifying Questar of Panhandle's desire to terminate the June 28, 1978, Gas Transportation and Exchange Agreement (the 1978 agreement), as amended, between Questar and Panhandle, which was certificated as Rate Schedule X-17, Questar requests authority to terminate service under the 1978 agreement effective June 15, 1990. Questar states that the de minimus rate impact resulting from the requested abandonment has been reflected in its pending case in Docket No. RP91-140-000. Questar further states that the firm transportation service was authorized by the Commission in an order issued June 5, 1979, in Docket No. CP79-19.

Comment date: November 14, 1991, in accordance with Standard Paragraph F at the end of this notice.

3. Texas Gas Transmission Corp., et al.

[Docket Nos. CP92-112-000, CP92-113-000, CP92-114-000, CP92-117-000]

Take notice that Applicants filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued to Applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached Appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

Comment date: December 9, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, startup date
CP92-112-000 (10-18-91)	Mobil Natural Gas Inc	14,200 7,100 3,880,000	OTX	0TX	8-30-91 IT interruptible	ST91-10367-000 9-1-91
CP92-113-000 (10-21-91)	Cibola Corporation (marketer).	100,000 75,000 36,500,000	all	various	9-1-91 IT-1 interruptible	ST91-10609-000 9-1-91
CP92-114-000 (10-21-91)	Panda Resources, Inc. (marketer).	100,000 75,000 36,500,000	all	OK, IA, KS, TX	9-4-91 IT-1 interruptible	ST92-75-000 9-4-91
CP92-117-000 (10-21-91)	PPG Industries, Inc	3,543 20 7,300	PA, WV	PA, WV	6-14-91 ITS Interruptible	ST92-53-000 9-1-91

[1] Offshore Texas is shown as OTX.

Applicant's address	Blanket docket
Equitrans, Inc., 3500 Park Lane, Pittsburgh, Pennsylvania 15275.	CP86-553-000
Northern Natural Gas Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188.	CP86-435-000
Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, Kentucky 42301	CP88-686-000

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 is 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. 91-26352 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-161-000, RP89-172-000, CP91-687-000 and CP90-2275-000]

ANR Pipeline Co.; Informal Settlement Conference

Take notice that an informal settlement conference will be convened in this proceeding commencing on December 3, 1991, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC for the purpose of exploring the possible settlement of the above-referenced dockets. The conference will resume at 10 a.m. on December 4 and 5, 1991.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Michael D. Cotleur at (202) 208-1076 or James A. Pederson at (202) 208-2158.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26353 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP91-14-001]

Blue Dolphin Pipe Line Co. Tariff Change

October 25, 1991.

Take notice that on October 9, 1991 Blue Dolphin Pipe Line Company "Blue Dolphin"), tendered for filing with the Commission, to be effective October 1, 1991, the following tariff sheet to be included in Blue Dolphin's FERC Gas Tariff:

Original Volume No. 1

Fifth Revised Sheet No. 40

This revised Sheet No. 40 replaces Forth Revised Sheet No. 40

An Annual (ACA) Charge provision is authorized under 18 CFR part 382 and provisions to recover these Annual Charges by FERC to Blue Dolphin are included in Blue Dolphin's tariff under both Rate Schedule FT and Rate Schedule IT.

On September 30, 1991 the Commission issued in Docket No. GP91-14-000 an Order waiving 1991 Annual Charges and denying request to continue collecting 1990 ACA Unit Charges. Therein the Director ordered blue Dolphin, in paragraph D, to file revised tariff sheets in 10 days to delete the ACA Unit Charge from its rate effective October 1, 1991. Blue Dolphin hereby files such revised tariff sheets deleting annual ACA Charges from its Tariff effective October 1, 1991.

Blue Dolphin states that a copy of the filing have been mailed to Blue Dolphin's customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commissions Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before November 1, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26354 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA91-1-22-003, TM92-1-22-002, TM92-1-22-001 (not consolidated)]

Commission; CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 25, 1991.

Take notice that CNG Transmission Corporation ("CNG"), on October 23, 1991, pursuant to section 4 of the Natural Gas Act and part 154 of the Commission's regulations, filed tariff sheets to amend previous filings made in the referenced dockets on September 27, 1991, October 1, 1991, and October 17, 1991. The amendment consists of the proposed tariff sheets listed on appendix A to the filing and the withdrawal of certain tariff sheets listed on appendix B to the filing.

CNG states that the purpose of its filing is to withdraw CNG's outstanding request for waiver of the Commission's PGA surcharge regulations and to file tariff sheets that would allow CNG to flow through its Gas Inventory Charges from Texas Eastern Transmission Corporation in accordance with the schedule established in the Commission's PGA regulations. The effect of the proposed change would be to reduce CNG's commodity sales rates by 17.5 cents per dekatherm.

CNG State that it has provided copies of its filing to its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before November 1, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26356 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP73-184-008 and CI73-485-007]

Colorado Interstate Gas Co.; Report of Refunds

October 25, 1991.

Take notice that Colorado Interstate Gas Company (CIG) on October 16, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Report of Refunds that it states has been made in accordance with Ordering Paragraph (C) of the Commission's Order Approving Settlement with Modifications issued on August 1, 1989.

CIG states that the initial refund was made on September 17, 1990, and that on September 17, 1991, it and CIG Exploration made a lump-sum cash refund equal to the remaining unpaid principal amount plus applicable interest.

CIG certifies that copies of the filing have been served on its customers and interested public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before November 1, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26355 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

Great Lakes Gas Transmission Limited Partnership; Proposed Changes in FERC Gas Tariff

October 25, 1991.

Take notice that Great Lakes Gas Transmission Limited Partnership ("Great Lakes") on October 23, 1991 tendered for filing the following revised tariff sheets to its FERC Gas Tariff to be effective November 1, 1990:

Original Volume No. 2

First Revised Fourth Revised Sheet No. 48-A
First Revised Substitute Fourth Revised Sheet No. 50-B
First Revised Substitute Ninth Revised Sheet No. 50-C
First Revised Third Revised Sheet No. 290
First Revised Third Revised Sheet No. 291

Great Lakes states that these tariff sheets were filed in compliance with the Federal Energy Regulatory Commission's ("Commission") September 13, 1990 Order issued in Docket No. RP89-186-004, *et al.* and its Order issued on October 22, 1991 in Docket No. RP89-186-006, *et al.*

Great Lakes states that the above tariff sheets were filed to (1) remove 37,500 Mcf per day of contract quantity from Rate Schedule T-4 (Sheet Nos. 48-A, 50-B and 50-C); and (2) remove 1,266 Mcf per day of contract quantity, and certain winter period quantities, from Rate Schedule T-11 (Sheet Nos. 290 and 291). This tariff filing made the appropriate tariff changes to reflect the changes to Rate Schedules T-4 and T-11 required by the September 13, 1990 and October 22, 1991 Orders as a result of part of such services being converted to services subject to Great Lakes' "open access" tariff, which become effective November 1, 1990.

Great Lakes states that a copy of the filing were served on all of Great Lakes' Customers and Public Service Commissions of Minnesota, Michigan and Wisconsin.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before November 1, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26357 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-050]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 25, 1991.

Take notice that on October 23, 1991, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Thirty-Fourth Revised Sheet No. 86
Forty-Second Revised Sheet No. 87
Forty-Fifth Revised Sheet No. 88
Twenty-Seventh Revised Sheet No. 89
Thirty-Sixth Revised Sheet No. 90
Twenty-Fourth Revised Sheet No. 94
Twentieth Revised Sheet No. 95
Twenty-Third Revised Sheet No. 96
Twenty-Fifth Revised Sheet No. 99
Twenty-Second Revised Sheet No. 100
Twentieth Revised Sheet No. 101
Nineteenth Revised Sheet No. 106
Sixteenth Revised Sheet No. 107
Eighteenth Revised Sheet No. 108
Nineteenth Revised Sheet No. 109
Nineteenth Revised Sheet No. 110
Seventeenth Revised Sheet No. 111
Eighteenth Revised Sheet No. 112

Seventh Revised Sheet No. 112A
Eighteenth Revised Sheet No. 113
Nineteenth Revised Sheet No. 114
Eighteenth Revised Sheet No. 115
Sixteenth Revised Sheet No. 116
Nineteenth Revised Sheet No. 117
Twenty-First Revised Sheet No. 118
Twenty-Second Revised Sheet No. 119
Fifteenth Revised Sheet No. 120
Seventeenth Revised Sheet No. 121
Thirteenth Revised Sheet No. 122
Thirteenth Revised Sheet No. 123
Thirteenth Revised Sheet No. 125
Third Revised Sheet No. 126
Third Revised Sheet No. 127
Third Revised Sheet No. 128
Fourth Revised Sheet No. 130
Fourth Revised Sheet No. 131

Northern states that the tariff sheets are being filed to update the Index of Purchasers and Directory of Communities Served contained in Northern's FERC Gas Tariff, Third Revised Volume No. 1, and reflect Order No. 436/500 and IGIC Conversions.

Northern states that a copy of the filing has been mailed to each of Northern's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before November 1, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26358 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-711-003]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 25, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on October 1, 1991 tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, six copies each of the following tariff sheets:

Rate Schedule X-136

Original Sheet Nos. 1324 through 1338

Texas Eastern states that the tariff sheets being submitted herewith provide for the transportation by Texas Eastern of up to 17,944 Dth per day of natural gas for National Fuel Gas Supply Corporation (National) via a portion of Texas Eastern's capacity in the Ellisburg-Leidy Pipeline commencing November 1, 1991. In orders issued September 13, 1990 and June 21, 1991 in Docket Nos, CP88-171-000, *et al.*, the Federal Energy Regulatory Commission certificated the third and final phase of the Niagara Import Point Projects which included authorizations required for the transportation of gas by Texas Eastern for National via the Ellisburg-Leidy Pipeline as provided in the tariff sheets submitted herewith.

Texas Eastern states that on October 12, 1990, Texas Eastern filed a Request for Rehearing and Clarification seeking, among other issues, rehearing regarding the requirement of MFV rates for said transportation by Texas Eastern. The Commission's June 21, 1991 Order granted Texas Eastern's request for rehearing regarding the requirement of MFV rates and thereby authorized Texas Eastern to collect a 100% demand charge for said service.

The proposed effective date of the tariff sheets listed above is November 1, 1991.

Texas Eastern states that copies of the filing has been served on the affected party.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before November 1, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26359 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-3-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 28, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on October 23, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheet:

Thirty-ninth Revised Sheet No. 50.2

Texas Eastern states that this sheet is being filed pursuant to Section 4.F of Texas Eastern's Rate Schedules SS-2 and SS-3 to flow through changes in CNG Transmission Corporation's (CNG) Rate Schedule GSS rates which underlie the rates for Texas Eastern's Rate Schedules SS-2 and SS-3.

Texas Eastern states that on October 1, 1991 CNG filed tariff sheets in Docket No. RP92-7-000 which revised Rate Schedule GSS rates effective November 1, 1991.

Texas Eastern states that Thirty-ninth Revised Sheet No. 50.2 supersedes Thirty-eighth Revised Sheet No. 50.2 which was filed with Texas Eastern's interim settlement on October 11, 1991 in Docket Nos. RP85-177, *et al.*, and RP88-67, *et al.*, and subsequently docketed as Docket No. CP92-103. In the event that the Commission does not accept the rates in the proposed interim settlement, Texas Eastern submits for filing the following alternate tariff sheets which supersede Sheet No. 50.2 of the primary and alternate tariff sheets filed in Texas Eastern's quarterly PGA filed on October 1, 1991 in Docket No. TQ92-2-17-000:

Alt 39th Revised Sheet No. 50.2
2nd Alt 39th Revised Sheet No. 50.2

Texas Eastern states that on August 22, 1991 CNG made a compliance filing in Docket Nos. RP88-211, *et al.*, which revised Rate Schedule GSS rates. One of the changes made in CNG's Rate Schedule GSS was a decrease in the Storage Capacity Charge from $0.0117 to $0.0115. Texas Eastern filed tariff sheets on September 5, 1991 in Docket Nos. TM92-2-17-000 and TM91-13-17-000 reflecting CNG's Rate Schedule GSS rate changes in Texas Eastern's Rate Schedules SS-2 and SS-3, including the Space Charge. The tariff sheets filed in Texas Eastern's quarterly PGA on October 1, 1991 and the tariff sheets filed in Texas Eastern's interim settlement on October 11, 1991 do not reflect the decrease in CNG's GSS Storage Capacity Charge. The tariff sheets filed herewith reflect the correct Space Charge under Texas Eastern's Rate Schedules SS-2 and SS-3.

The proposed effective date of the above listed tariff sheets is November 1, 1991.

Texas Eastern states that copies of the filing have been served to Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of

Practice and Procedure. All such motions or protests should be filed on or before November 4, 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. 91-26360 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-29-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

October 25, 1991.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on October 22, 1991, certain revised tariff sheets to Second Revised Volume No. 1 and Third Revised Volume No. 1 of its FERC Gas Tariff included in appendix A attached to the filing.

Transco states that the purpose of the filing is to track rate changes attributable to (1) storage services purchased from Consolidated Natural Gas (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedule LSS, (2) storage services purchased from Penn-York Energy Corporation (Penn-York) under its Rate Schedule SS-1 the costs of which are included in the rates and charges payable under Transco's Rate Schedules LSS and SS-2, (3) transportation services purchased from National Fuel under its Rate Schedule X-54 the costs of which are included in the rates and charges payable under Transco's Rate Schedule SS-2, (4) storage services purchased from North Penn Gas Company (North Penn) under its Rate Schedule SS the costs of which are included in the rates and charges payable under Transco's Rate Schedule SS-1, and (5) storage services purchased from Texas Eastern Transmission Corporation (TETCO) under its Rate Schedule X-28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S-2. The tracking filing is being made pursuant to Section 4 of Transco's Rate Schedule LSS, Section 5 of Transco's Rate Schedule SS-1, Section 4 of Transco's Rate Schedule SS-2, and Section 26 of the General Terms and Conditions of Volume No. 1 of Transco's FERC Gas Tariff.

Transco states that copies of the filing are being mailed to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 1, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26361 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-14-000]

Transwestern Pipeline Co., Proposed Changes in FERC Gas Tariff

October 25, 1991.

Take notice that on October 23, 1991, Transwestern Pipeline Company (Transwestern) tendered for filing the following revised tariff sheets to become part of its FERC Gas Tariff, Second Revised Volume No. 1 with a proposed effective date of November 22, 1991:

Third Revised Sheet No. 29B
Sixth Revised Sheet No. 32A
Third Revised Sheet No. 32B
Second Revised Sheet No. 51

Transwestern states that the above referenced tariff sheets are being filed to modify the nomination and scheduling provisions of its FTS-1 and ITS-1 Rate Schedules. Transwestern states that in an effort to more effectively control the operation of its system, Transwestern is proposing that the shippers on its system be required to cause the operator(s) of receipt and delivery points to confirm the nominations made by shippers.

Transwestern states that a copy of the filing has been mailed to each of Transwestern's gas utility customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 1, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26362 Filed 10-31-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-50-NG]

Natural Gas Clearinghouse; Order Granting Blanket Authorization to Import and Export Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import and export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Natural Gas Clearinghouse (NGC) blanket authorization to import and export natural gas. The order authorizes NGC to import up to 600 Bcf of gas, including liquefied natural gas (LNG), and to export up to 130 Bcf of natural gas, including LNG, over a two-year term beginning date of first import of export delivery after October 31, 1991.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 25, 1991.

Clifford P. Tomaszewski,

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

[FR Doc. 91-26441 Filed 10-31-91; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-40-NG]

Southwest Gas Corporation; Order Granting Blanket Authorization to Import Canadian Natural Gas

AGENCY: Department of Energy, Office Of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import Canadian natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Southwest Gas Corporation blanket authorization to import up to 365 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 25, 1991.

Clifford P. Tomaszowski,

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

[FR Doc. 91-26442 Filed 10-31-91; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed During the Week of October 4 through October 11, 1991

During the Week of October 4 through October 11, 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 shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: October 28, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of October 4 through October 11, 1991]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 4, 1991	James L. Schwab, Spokane, WA	LFA-0157	Appeal of an information request denial. If granted: The September 25, 1991 Freedom of Information Request Denial issued by the Office of the Inspector General would be rescinded, and James L. Schwab would receive access to DOE information concerning his dismissal from Advance Security, Inc.
Oct. 4, 1991	Standard Oil (Indiana)/South Carolina, Columbia, SC.	RM21-256	Request for modification/rescission in the Standard Oil (Indiana) refund proceeding. (If granted: The March 25, 1986 and March 15, 1990 Decisions and Orders (Case Nos. RQ21-276 & RM21-163) would be modified regarding the state's application for refund submitted in the Standard Oil (Indiana) Second Stage Refund Proceeding.
Oct. 4, 1991	Texaco/Wong's Texaco, Atlantic Beach, FL	RR321-82	Request for modification/rescission in the Texaco refund proceeding. If granted: The August 17, 1990 Decision and Order (Case No. RF321-1806 and RF321-4522) would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Oct. 4, 1991	Texaco/White's Texaco, Charleston, SC	RR321-83	Request for modification/rescission in the Texaco refund proceeding. If granted: The September 20, 1991 Decision and Order (Case No. RF321-10869 and RF321-16788) issued to White's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Oct. 9, 1991	International Association of Machinists and Aerospace Workers Flushing, NY.	LFA-0158	Appeal of an information request denial. If granted: The September 11, 1919 Freedom of Information Request Denial issued by the Office of the Acting Assistant General Counsel for General Litigation would be rescinded, and International Association of Machinists and Aerospace Workers would receive access to documents relating to the Maywood Interim-Storage Site.
Oct. 10, 1991	Energy Corporation of America Washington, DC	LEF-0036	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V, in connection with April 18, 1984 Court Order, entered into with the Energy Corporation of America.
Oct. 10, 1991	Fuel Oil Supply & Terminaling, Inc. and Estate of Eddie Hadsell, Washington, DC.	LEF-0037	Implementation of special refund procedures. If granted: The Office of Hearing and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R., Part 205, Subpart V, in connection with the January 1990 Settlement Agreement entered into with the Fuel Oil Supply and Terminaling, Inc.
Oct. 11, 1991	Glen Milner, Seattle, WA	LFA-0159	Appeal of an information request denial. If granted: The September 19, 1991 Freedom of Information Request Denial issued by the Office of Intergovernmental and External Affairs would be rescinded, and Glen Milner would receive access to documents regarding the transportation of nuclear materials.
Oct. 11, 1991	Glen Milner, Seattle, WA	LFA-0160	Appeal of an information request denial. If granted: The September 19, 1991 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Glen Milner would receive access to DOE information withheld pursuant to Exemption 2.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of October 4 through October 11, 1991]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 11, 1991	Texas, Austin, TX	LEG-0003	Request for special redress. If granted: The Office of Hearings and Appeals would review the proposed expenditures for Stripper-Well funds which were disapproved by the Assistant Secretary for Conservation and Renewable Energy.

REFUND APPLICATIONS RECEIVED

[Week of October 4, to October 11, 1991]

Date received	Name of refund proceeding/name of refund applicant	Case No.
10/07/91	Cornwall Fuel Co	RF304-12510
10/07/91	Thurston Arco	RF304-12511
10/07/91	Country Kitchen of Lebanon.	RF335-44
10/07/91	Modern Cleaners	RF335-45
10/07/91	Dutch Maid Coin Laundry.	RF335-46
10/07/91	Lloyd's Canal Blvd. Shell.	RF315-10173
10/10/91	Vangas. Inc	RF304-12514
10/11/91	B T U Energy Corp	RF340-20
10/11/91	Pride Refining Inc	RF340-21
10/11/91	B T U Energy Corp	RF335-47
10/09/91	Vito's Arco	RF304-12512
10/09/91	Owen's Arco	RF304-12513
10/04/91 thru 10/11/91.	Texaco Refund Applications Received.	RF321-17405 Thru RF321-17440
10/04/91 thru 10/11/91.	Crude Oil Refund Applications Received.	RF272-90174 thru RF 272-90228
10/04/91 thru 10/11/91.	Gulf Oil Refund Applications Received.	RF300-17889 thru RF 300-17908

[FR Doc. 91-26443 Filed 10-31-91; 845 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4027-5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 14, 1991 Through October 18, 1991 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1991 (56 FR 14096).

Draft EISs

ERP No. D-FHW-K40182-CA Rating E02, CA-30 Improvements, CA-66/ Foothill Boulevard to I-215, Funding and section 404 Permit, Los Angeles and San Bernardino Counties, CA.

Summary

EPA expressed environmental objections with the proposed action. EPA requested additional information in the FEIS on both short-term and long-term air quality impacts, direct and indirect cumulative impacts, and the project's alternatives analysis.

ERP No. RD-OSM-A01096-00 Rating 3, Revisions to the Permanent Program Regulations Implementing section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Addressing Valid Existing Rights (VER).

Summary

EPA believes that this document does not provide adequate information to determine the magnitude of environmental impacts associated with the proposed action. EPA recommends that OSM promulgate specific regulations with appropriate permitting, mitigation, and abatement requirements to avoid and minimize adverse impacts to the resources in the 522(e) areas.

Final EISs

ERP No. F-AFS-J65165-MT, Harvey-Eightymile Project Area, Timber Sale and Road Construction, Implementation, Deerlodge National Forest, Silver King Roadless Area, Philipsburg Ranger District, Granite County, MT.

Summary

EPA concerns were addressed in the final EIS.

ERP No. F-AFS-K61107-CA, Mount Vida Planning Area Integrated Resource Management Plan, Implementation, Modoc National Forest, Warner Mountain Ranger District, Modoc County, CA.

Summary

EPA noted that the Record of Decision was signed two months prior to filing the FEIS. This is inconsistent with CEQ's NEPA Implementation Regulation's and precludes the ability to address comments on the FEIS.

ERP No. F-FHA-E36162-MS, ADOPTION—Whites Creek Watershed Protection and Flood Prevention Plan, Funding, Possible 404 Permit, Webster County, MS.

Summary

EPA has no objection to this project.

ERP No. F-FHW-C40124-PR, PR-3 Relocation, between the Municipalities of Fajardo, and Humacao, COE 404 Permit, NPDES Permit and Funding, PR.

Summary

EPA believes that the proposed project will not result in significant adverse environmental impacts and, therefore, has no objection to its implementation.

ERP No. F-FHW-F40301-IL, FAP 30 (formerly FAP 413) Construction, I-270 at the northern terminus of I-255 to IL-267 north of Alton, Funding, section 404 Permit, Possible NPDES Permit, Madison County, IL.

Summary

EPA continues to have environmental concerns about significant increases in ambient noise levels and the lack of effective noise impact mitigation.

ERP No. F-FHW-F40302-WI, WI-26/ Fort Atkinson Bypass Construction, Old WI-26/Existing WI-26 to the northern terminus of Existing WI-26 near Airport Road, section 10 and 404 Permits and Funding, Koshkonong and Jefferson Townships, City of Fort Atkinson, Jefferson County, WI.

Summary

EPA has no environmental objections to the project.

ERP No. F-USA-F11020-00, Jefferson Proving Ground Base Closure and Realignment, Relocating the U.S. Army Munitions Production Acceptance Test and Evaluation Mission to Yuma Proving Ground, Yuma and La Paz Counties, AZ and Jefferson, Jennings, and Ripley Counties, IN.

Summary

EPA continues to have concerns regarding the accumulation of unexploded ordnance at Yuma Proving Ground and impact associated with proposed timbering operations. Because of our concerns, we have identified

provisions that should be included in the ROD.

ERP No. F–USN–L11013–00, US West Coast Homeporting Program for Fast Combat Support Ships (AOE–6 Class), Implementation, Long Beach Naval Station, North Island Naval Air Station and San Diego Naval Station, CA and Puget Sound Naval Shipyard, Bremerton, WA.

Summary

EPA feels this document adequately addresses previous environmental concern.

Regulations

ERP No. R–OSM–A01099–00, 30 CFR Parts 740, 761 & 772; Federal Lands Program: Areas Unsuitable for Mining; Areas Designated by Act of Congress; Requirements for Coal Exploration, (56 FR 33152).

Summary

EPA does not believe that adequate information has been provided to determine the magnitude of environmental impacts associated with the revisions presented in the proposed rule.

Dated: October 29, 1991.

William D. Dickerson,

Director, Office of Federal Activities.

[FR Doc. 91–26427 Filed 10–31–91; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4027–4]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5073 or (202) 260–5075.

Availability of Environmental Impact Statements filed October 21, 1991 through October 25, 1991 pursuant to 40 CFR 1506.9.

EIS No. 910384, FINAL EIS, AFS/BLM, ND, Northern Little Missouri National Grassland Oil and Gas Leasing, Custer National Forest, Dunn, McKenzie, Golden Valley, and Billings Counties, MT, Due: December 02, 1991, Contact: Carl Fager (406) 657–6361.

The U.S. Department of Agriculture's Forest Service and the U.S. Department of the Interior's Bureau of Land Management are Joint Lead Agencies for this project.

EIS No. 910385, FINAL EIS, BLM, NB, Nebraska Resource Management Plan, Implementation, Newcastle Resource Area, Casper District, Several Counties, NB, Due: December 02, 1991, Contact: Gary Labsack (307) 746–4453.

EIS No. 910386, FINAL EIS, NPS, FL, Big Cypress National Preserve, General Management Plan, Implementation, Collier, Dade, and Monroe Counties, FL, Due: December 02, 1991, Contact: Wallace Hibbard (813) 695–2000.

EIS No. 910387, FINAL SUPPLEMENT, NSF, U.S. Antarctic Program Continued Operation, Updated Information, Implementing the Safety, Environment, and Health (SEH) Initiative, Antarctica, Due: December 2, 1991, Contact: Dr. Sidney Draggan (202) 357–7766.

EIS No. 910388, DRAFT EIS, BOP, WV, Beckley Federal Correctional Institution, Construction and Operation, Raleigh County, WV, Due: December 16, 1991, Contact: Patricia Sledge (202) 514–6470.

EIS No. 910389, FINAL EIS, AFS, ID, Deep Creek and Copper Creek Timber Sale and Road Construction, Implementation, Council Ranger District, Payette National Forest, Adams County, ID, Due: December 02, 1991, Contact: Phil Gilman (208) 634–1333.

Amended Notices

EIS No. 910277, DRAFT EIS, AFS, OR, White King and Lucky Lass Uranium Mine Cleanup and Rehabilitation, Section 404, NPDES Permit and Special Use Permit, Licenses Approval, Fremont National Forest, Lakeview Ranger District, Lake County, OR, Due: November 07, 1991, Contact: Felix R. Miera Jr. (503) 947–3334. Published FR 08–23–91—Review period extended.

Dated: October 29, 1991.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 91–26428 Filed 10–31–91; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–140160; FRL–3998–7]

Access to Confidential Business Information by Battelle Columbus Division and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Battelle Columbus Division (BCD), of Columbus, Ohio, and its subcontractors: Westat, Incorporated (WES), of Rockville, Maryland, Midwest Research Institute (MRI), of Kansas City, Missouri, and David C. Cox and Associates (DCA), of Washington, DC, for access to information which has been submitted to EPA under sections 4, 5, 6, 8, and 11 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than November 18, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract number 68–D0–0126, contractor BCD of 505 King St., Columbus, OH, and 2101 Wilson Blvd., Arlington, VA, and its subcontractors: WES, of 1650 Research Blvd., Rockville, MD, MRI, of 425 Volker Blvd., Kansas City, MO, and DCA, of 1620 22nd St., NW., Washington, DC will assist the Office of Toxic Substances (OTS) in assessing design, data collection, and analysis methods used to determine potential human exposures to toxic substances.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–D0–0126, BCD, WES, MRI, and DCA will require access to CBI submitted to EPA under sections 4, 5, 6, 8, and 11 of TSCA to perform successfully the duties specified under the contract. BCD, WES, MRI, DCA personnel will be given access to information submitted to EPA under sections 4, 5, 6, 8, and 11 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, and 11 of TSCA that EPA may provide BCD, WES, MRI, and DCA access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters, BCD's Columbus, OH and Arlington, VA facilities, WES's Rockville, MD facility, and MRI's Kansas City, MO facility only.

BCD, WES, and MRI have been authorized access to TSCA CBI at their facilities under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved BCD's, WES's, and MRI's security plans and has performed the required inspections of their facilities and has found the facilities to be in compliance with the manual. Upon completing review of the CBI materials, BCD, WES, and MRI will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until September 30, 1993. BCD, WES, MRI,

and DCA personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: October 22, 1991.

Linda A. Travers,

Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-26430 Filed 10-31-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-140162; FRL-3999-6]

Access to Confidential Business Information by ICF Incorporated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, ICF Incorporated (ICF), of Fairfax, Virginia, for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than November 18, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-D8-0116, contractor ICF, of 9300 Lee Hwy., Fairfax, VA, will assist the Office of Toxic Substances (OTS) in performing economic and regulatory analyses in support of EPA decisionmaking under TSCA.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68-D8-0116, ICF will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. ICF personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the Federal Register of December 1, 1988 (53 FR 48584), ICF was authorized for access to CBI submitted to EPA under all sections of TSCA. EPA is issuing this notice to extend ICF's access to TSCA CBI under contract number 68-D8-0116.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide ICF access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and ICF's Fairfax, VA site only.

ICF has been authorized access to TSCA CBI at its facility under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved ICF's security plan and has performed the required inspection of its facility and has found the facility to be in compliance with the manual. Upon completing review of the CBI materials, ICF will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until June 30, 1992.

ICF personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: October 22, 1991.

Linda A. Travers,

Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-26432 Filed 10-31-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-140161; FRL-3999-5]

Access to Confidential Business Information by ASCI Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, ASCI Corporation (ASCI), of McLean, Virginia, for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than November 18, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-D9-0006, contractor ASCI, of 1365 Beverly Rd., McLean, VA, will assist the Office of Toxic Substances (OTS) in administrative and graphic support services.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68-D9-0006, ASCI will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. ASCI personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the Federal Register of November 14, 1990 (55 FR 47533), ASCI was authorized for access to CBI submitted to EPA under all sections of TSCA. EPA is issuing this notice to extend ASCI's access to TSCA CBI under contract number 68-D9-0006.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide ASCI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters only.

Clearance for access to TSCA CBI under this contract may continue until December 31, 1991.

ASCI personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: October 22, 1991.

Linda A. Travers,

Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-26431 Filed 10-31-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-51774; FRL 4001-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt

of 103 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 92-40, 92-41, 92-42, 92-43, December 31, 1991.

P 92-44, January 1, 1992.

P 92-45, 92-46, 92-47, 92-48, 92-49, January 4, 1992.

P 92-50, January 19, 1992.

P 92-51, 92-52, 92-53, January 4, 1992.

P 92-54, January 6, 1992.

P 92-55, 92-56, 92-57, 92-58, 92-59, 92-60, 92-61, January 4, 1992.

P 92-62, 92-63, 92-64, 92-65, 92-66, 92-67, 92-68, January 5, 1992.

P 92-69, 92-70, 92-71, 92-72, 92-73, 92-74, 92-75, 92-76, 92-77, 92-78, 92-79, 92-80, 92-81, 92-82, 92-83, 92-84, 92-85, 92-86, 92-87, 92-88, 92-89, 92-90, 92-91, 92-92, 92-93, 92-94, 92-95, 92-96, 92-97, 92-98, 92-99, 92-100, 92-101, 92-102, 92-103, 92-104, 92-105, 92-106, 92-107, 92-108, 92-109, 92-110, 92-111, 92-112, 92-113, 92-114, 92-115, 92-116, 92-117, 92-118, 92-119, 92-120, 92-121, 92-122, 92-123, 92-124, 92-125, 92-126, 92-127, 92-128, January 6, 1992.

P 92-129, January 8, 1992.

P 92-130, January 12, 1992.

P 92-131, January 8, 1992.

P 92-132, January 12, 1992.

P 92-133, 92-134, 92-135, January 13, 1992.

P 92-136, 92-137, 92-138, 92-139, 92-140, January 14, 1992.

P 92-141, 92-142, January 18, 1992.

Written comments by:

P 92-40, 92-41, 92-42, 92-43, December 1, 1991.

P 92-44, December 2, 1991.

P 92-45, 92-46, 92-47, 92-48, 92-49, December 5, 1991.

P 92-50, December 20, 1991.

P 92-51, 92-52, 92-53, December 5, 1991.

P 92-54, December 7, 1991.

P 92-55, 92-56, 92-57, 92-58, 92-59, 92-60, 92-61, December 5, 1991.

P 92-62, 92-63, 92-64, 92-65, 92-66, 92-67, 92-68, December 6, 1991.

P 92-69, 92-70, 92-71, 92-72, 92-73, 92-74, 92-75, 92-76, 92-77, 92-78, 92-79, 92-80, 92-81, 92-82, 92-83, 92-84, 92-85, 92-86, 92-87, 92-88, 92-89, 92-90, 92-91, 92-92, 92-93, 92-94, 92-95, 92-96, 92-97, 92-98, 92-99, 92-100, 92-101, 92-102, 92-103, 92-104, 92-105, 92-106, 92-107, 92-108, 92-109, 92-110, 92-111, 92-112, 92-113, 92-114, 92-115, 92-116, 92-117, 92-118, 92-119, 92-120, 92-121, 92-122, 92-123, 92-124, 92-125, 92-126, 92-127, 92-128, December 7, 1991.

P 92-129, December 9, 1991.

P 92-130, December 13, 1991.

P 92-131, December 9, 1991.

P 92-132, December 13, 1991.

P 92-133, 92-134, 92-135, December 14, 1991.

P 92-136, 92-137, 92-138, 92-139, 92-140, December 15, 1991.

P 92-141, 92-142, December 19, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS-51774)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm. L-100, Washington, DC, 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC, 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 92-40

Manufacturer. Confidential.

Chemical. (G) Sulfonic ester group.

Use/Production. (G) Chemical for photoresist. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,500 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,500 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 92-41

Manufacturer. Confidential.

Chemical. (G) Phenol compound.

Use/Production. (G) Chemical for photoresist. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,500 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit). Skin sensitization: negative species (guinea pig).

P 92-42

Manufacturer. Kluber Lubricantion.

Chemical. (G) Calcium amate-dicarboxylate salt paraffinic mineral oil.

Use/Production. (S) Lubricating grease. Prod. range: 40,000-60,000 kg/yr.

P 92-43

Importer. MTC America, Inc.

Chemical. (G) Amino resin.

Use/Import. (S) Crossliking agent for thermosetting coating. Import range: Confidential.

P 92-44

Manufacturer. Sunrez Corporation.

Chemical. (G) Vinyl ester base stock resin.

Use/Production. (G) Fiber gloss reinforced resin. Prod. range: Confidential.

P 92-45

Manufacturer. Confidential.

Chemical. (G) Blocked isocyanate.

Use/Production. (G) Coating (contained). Prod. range: Confidential.

P 92-46

Manufacturer. Confidential.

Chemical. (G) Amino ester.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 92-47

Manufacturer. Confidential.

Chemical. (G) Amino epoxy adduct.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 92-48

Manufacturer. Confidential.

Chemical. (G) Amino epoxy lactate salt.

Use/Production. (G) Coating. Prod. range: Confidential.

P 92-49

Manufacturer. Confidential.

Chemical. (S) 2-Methoxy-2-methyl-butane.

Use/Production. (S) Automotive fuel component. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2.15 g/kg species (rat). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 92-50

Manufacturer. Novo Nordisk Bioindustrials, Inc.

Chemical. (G) A sporulation-deficient *Bacillus licheniformis* strain was modified by genetic engineering techniques to contain genes for *alpha*-amylase and antibiotic resistence. The *alpha*-amylase gene was obtained from a *bacillus stearothermophilus* strain and introduced into the host using a recombinant, intergeneric plasmid.

Use/Production. (G) The microorganism will be used for the biosysthesis of *alpha*-amylase. Prod. range: Confidential.

Toxicity Data. Pathogenicity tests were conducted in mice with the recombinant strain and the unmodified host. Vegetative cells administered to

mice intraperitoneally at three dose levels were nonpathogenic. The LD50 for the unmodified host was $> 8 \times 10^{10}$ cells per kilogram of body weight and was LD50 $> 1.4 \times 10^{11}$ cells per kilogram of body weight for the recombinant microorganism.

Exposure. Workers in the production areas who maintain and process cultures of the recombinant microorganism.

Environmental Release/Disposal: production and processing: live cells are contained in a sealed fermentation vessel systems during the manufacturing process. The recombinant microorganism is separated from the enzyme product and is inactivated prior to disposal. The number of recombinant microorganisms in final enzymes formulations is expected to be low. Disposal of cell waste: land application.

P 92-51

Manufacturer. Westvaco Corporation.

Chemical. (G) Reaction product of fatty acid imidazoline and maleated fatty acid.

Use/Production. (G) Corrosion inhibitor. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat). Static acute toxicity: time LC50 96h1,000 ppm species (freshwater minnow). Skin irritation: moderate.

P 92-52

Manufacturer. D.M. Stewart Manufacturing Company.

Chemical. (G) Mixed metal ferrite.

Use/Production. (S) Component of reprographic developer. Prod. range: Confidential.

P 92-53

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Cuprate(3-),(2-(((substituted)azo)phenylmethyylazo-4-sulfobenzoato(5-)), salt.

Use/Production. (S) Dyestuff for cellulose. Prod. range: 5,000–15,000 kg/yr.

P 92-54

Manufacturer. Bedoukian Research, Inc.

Chemical. (G) Substituted norborneol.

Use/Production. (S) Fragrance component. Prod. range: Confidential.

P 92-55

Manufacturer. Bedoukian Research, Inc.

Chemical. (G) Alkyl substituted norborneol.

Use/Production. (S) Fragrance component. Prod. range: Confidential.

P 92-56

Manufacturer. Confidential.

Chemical. (G) Alkoxylated alkanolamine.

Use/Production. (G) Plastics additive. Prod. range: Confidential.

P 92-57

Manufacturer. Confidential.

Chemical. (G) Silica supported magnesium-titanium catalyst.

Use/Production. (S) Catalyst for production of polyolefin. Prod. range: Confidential.

P 92-58

Importer. Confidential.

Chemical. (G) Sodium salt of substituted naphthalene disulphonic acid.

Use/Import. (G) Dye. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: positive. Skin sensitization: negative species (guinea pig).

P 92-59

Manufacturer. Reichhlod Chemicals, Inc.

Chemical. (G) Modified polyurethane powder.

Use/Production. (S) Pigments for coatings. Prod. range: Confidential.

P 92-60

Importer. Kanenatsu USA., Inc.

Chemical. (G) Hydrogenated terpene polymer.

Use/Import. (S) Adhesive. Import range: 50,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/yr. Skin irritation: negligible species (rabbit).

P 92-61

Manufacturer. Confidential.

Chemical. (G) Diamine salt of an organic acid.

Use/Production. (G) Phenolic resin catalyst. Prod. range: Confidential.

P 92-62

Manufacturer. Confidential.

Chemical. (G) Phenolic resin.

Use/Production. (G) Industrial adhesive component. Prod. range: Confidential.

P 92-63

Manufacturer. Confidential.

Chemical. (G) Reaction product of ethoxylated fatty acid oils and a phenolic pentraerythritol tetraester.

Use/Production. (G) Emulsifier. Prod. range: Confidential.

Toxicity Data. Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit).

P 92-64

Importer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Import. (S) Additive. Import range: Confidential.

Toxicity Data. Skin irritation: negligible species (rabbit).

P 92-65

Manufacturer. Minnesota Mining & Manufacturing Co.

Chemical. (G) Substituted triazine.

Use/Production. (S) ChemicaL intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat). Eye irritation: minimal species (rabbit). Skin irritation: none species (rabbit). Mutagenicity: negative.

P 92-66

Manufacturer. Basf Corporation.

Chemical. (S) Metal complex of bis(disubstituted((monosubstituted naphthalenyl)azo)naphthalene metal salt.

Use/Production. (G) Textile dye. Prod. range: Confidential.

P 92-67

Manufacturer. Basf Corporation.

Chemical. (G) Metal complex of bis(disubstituted((monosubstituted naphthalenyl)azo naphthalene sulfonato)alkyl metal salt.

Use/Production. (G) Textile dye. Prod. range: Confidential.

P 92-68

Manufacturer. Basf Corporation.

Chemical. (G) Metal complex of bis(disubstituted((monosubstituted naphthalenyl)azo) naphthalene sulfonato)alkyl metal salt.

Use/Production. (G) Textile dye. Prod. range: Confidential.

P 92-69

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumeric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-70

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaricacid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-71

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oils rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-72

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, ammonuim salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-73

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, monoethanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-74

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, diethanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-75

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, triethanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-76

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, morpholine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-77

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, dimethylaminoethanol salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-78

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, ester of glycerine and sorbitol polymer, 2-amino-2-methyl- propanol salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-79

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols formaldhyde, esters of glycewrine and sorbitol polymer, 2-methylamino-2-methyl-propanol salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-80

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, dimethylamino-2-propanol salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-81

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, urea salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-82

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, diethylamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-83

Manufacturer. Akzo Coatings.

Chemical. (G) Gum tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, triethylamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-84

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, N-propylamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-85

Manufacturer. Akzo Coatings.

Chemical. (G) Gum tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, di-isopropanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-86

Manufacturer. Akzo Coatings.

Chemical. (G) Gum tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, tri-isopropanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-87

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, trimethylamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-88

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, ethylene diamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-89

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, sodium salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-90

Manufacturer. Akzo Coatings.

Chemical. (G) Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, potassium salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-91

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, ammonium salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-92

Manufacturer. AKzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, monoethanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-93

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, diethanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-94

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substitutedphneols and formaldehyde,esters of glycerine and sorbitol polymer, triethanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-95

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, morpholine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-96

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, dimethylaminoethanol salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-97

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, 2-amino-2 methyl-propanol salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-98

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substitutedphenols and formaldehyde, esters of glycerine and sorbitol polymer, 2-methylamino-2 methyl-propanol salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-99

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted and formaldehyde, esters of glycerine and sorbitol polymer, dimethylamino-2 propanol salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-100

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, urea salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-101

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, diethylamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-102

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, triethylamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-103

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, n-propylamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-104

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, di-isopropanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-105

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, tri-isopropanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-106

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, trimethylamine.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-107

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, ethylene diamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-108

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbital polymer, sodium salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-109

Manufacturer. Akzo Coatings.

Chemical. (G) Gum rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, potassium salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-110

Manufacturer. Akzo Coatings.

Chemical. (G) Gum oil rosin fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, ammonium salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-111

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, monothanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-112

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, diethanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-113

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, triethanolamine salt.

Use/Production. (S) Printing ink/ coatings. Prod. range: Confidential.

P 92-114

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, morpholine salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-115

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, dimethylaminoethanol salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-116

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, 2-amino-2 methyl-propanol salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-117

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, 2-methylamino-2 methyl-propanol salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-118

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, dimethylamino-2-propanol salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-119

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, urea salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-120

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, diethylamine salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-121

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaidehyde, esters of glycerine and sorbitol polymer, triethylamine salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-122

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, n-propylamine salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-123

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, di-isopropanolamine salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-124

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, tri-isopropanolamine salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-125

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, trimethylamine salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-126

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, ethylene diamine salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-127

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, sodium salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-128

Manufacturer. Akzo Coatings.

Chemical. (G) Tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, potassium salt.

Use/Production. (S) Printing ink/coatings. Prod. range: Confidential.

P 92-129

Importer. Shell Oil Company.

Chemical. (S) Neononanoic acid, ethenyl ester.

Use/Import. (S) Monomer for acrylic latex print. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (rabbit). Eye irritation: slight species (rabbit). Mutagenicity: negative. Skin irritation: moderate species (rabbit).

P 92-130

Manufacturer. Pierce & Stevens Corporation.

Chemical. (G) Amine capped polyester polyurethane.

Use/Production. (G) Water-base laminating adhesive. Prod. range: Confidential.

P 92-131

Importer. EKA Nobel Inc.

Chemical. (G) Cyclic amide.

Use/Import. (S) Solvent. Import range: 50,000–10,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 5.0 g/kg species (rat). Eye irritation: moderate species (rabbit). Skin irritation: slight species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 92-132

Importer. Ikuro Yasui.

Chemical. (G) Terpene copolymer.

Use/Import. (S) Pressure sensitive adhesive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Skin irritation: negligible species (rabbit).

P 92-133

Importer. NOF America Corporation.

Chemical. (S) Polyethylene-graft-poly(styrene-stat-2-hydroxyethyl methacrylate).

Use/Import. (S) Compatibilizing agent for polymer blends. Import range: Confidential.

P 92-134

Manufacturer. Air Products and Chemicals, Inc.

Chemical. (S) 2-Amino-1-methoxypropane.

Use/Production. (G) Herbicides intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1.18 mg/kg species (rat). Skin irritation: severe species (rabbit).

P 92-135

Manufacturer. Confidential.

Chemical. (G) Amine salt of polymer carboxylate.

Use/Production. (S) Catalyst for polyurethane foam. Prod. range: Confidential.

P 92-136

Importer. Mitsui Petrochemicals (America), Ltd.

Chemical. (G) Ethylene-manuf-product unsaturated C_5 fraction polymer with substituted toluene.

Use/Import. (S) Materials for adhesive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 $\leq$ 5,000 mg/kg species (rat). Eye irritation: moderate species (rabbit). Mutagenicity: negative.

P 92-137

Manufacturer. E.I. Du Pont De Nemours and Co., Inc.

Chemical. (G) Fluorinated substituted urethane.

Use/Production. (G) Substracted treatment. Prod. range: Confidential.

Toxicity Data. Acute dermal toxicity: LD50 > 5,000 mg/kg species (rabbit). Static acute toxicity: time EC50 48H > 5,000 mg/l species (daphnia magna). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit). Skin sensitization: negative species (guinea pig).

P 92-138

Manufacturer. Shell Oil Company.

Chemical. (G) Alkyl amino alcohol.

Use/Production. (G) Monomers with destituted use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2.21 g/kg species (rat). Eye irritation: severe species (rabbit). Skin irritation: severe species (rabbit). Mutagenicity: negative.

P 92-139

Manufacturer. Confidential.

Chemical. (G) Saturated polyester polyol.

Use/Production. (S) High solids baking enamel. Prod. range: 45,00,000–75,000 kg/yr.

P 92-140

Importer. Mektec Corporation.

Chemical. (G) 2-Propenoic acid, 2-methyl-, octadecyl ester, polymer with 2-propenoic acid, fluoroalkyl ester.

Use/Import. (S) Water and oil repellents for fiber. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Static acute toxicity: LC50 747.5 mg/l, time 96H species (killifish).

P 92-141

Manufacturer. Confidential.

Chemical. (S) 1,5-Naphthalenedisulfonic acid,2,2'-((2,2'-disulfo(1,1'-bisphenyl)-4,4'-diyl)bis(imino(6-chloro-1,3,5-triazine-4,2-diyl)imino(1-hydroxy-3-sulfo-6,2-naphthalenediyl)azo))bis-octasodium/lithium salt.

Use/Production. (S) Dye for cellulose fibers and their blends. Prod. range Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92-142

Manufacturer. Eastman Chemical Companyc.

Chemical. (S) Ethylene oxide; propylene oxide; glycerol ; phenol,4,4'-(1-methylehylidene)bis-, polymer with chloromethytloxirane.

Use/Production. (S) Polymer immediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 10 g/kg species (rat). Acute dermal toxicity: > 8 g/kg species (rabbit). Eye irritation: minimal species (rabbit). Skin irritation: none species (rabbit).

Dated: October 28, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-26429 Filed 10-31-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 24, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0019.

Title: Application for Radio Station License or Modification Thereof (Under part 23).

Form Number: FCC Form 403.

Action: Revision.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 2 responses; 5 hours average burden per response; 10 hours total annual burden.

Needs and Uses: The FCC Form 403 has been revised to comply with the Metric Conversion Act and to remove references to part 25 pursuant to the *First Report and Order,* CC Docket No. 86-496. Prior to the *R&O,* the FCC Form 403 application form was required of applicants seeking authorizations in the Domestic Fixed Satellite Service (Part 25) and the International Fixed Public Radiocommunications Service (Part 23). Virtually all of the filings were made by part 25 applicants,. The FCC Form 403 is also used to make certain minor changes in the existing operations of the station. The form is use by the FCC to determine the applicant's eligibility to operate the stations and to receive requested modifications to the Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-26334 Filed 10-31-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

American President Lines, LTD., Agreement(s) Filed

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

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 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.: 202-010689-047.

Title: Transpacific Westbound Rate Agreement.

Parties: American President Lines, Ltd., Kawasaki Kisen Kaisha Ltd., A.P. Moller-Maersk Lines, Mitsui O.S.K. Lines, Ltd., Neptune Orient Lines, Ltd., Nippon Yusen kaisha, Ltd., Sea-Land Service, Inc.

Synopsis: The proposed modification would increase the transition period during which a party joining the Agreement must adopt the Agreement's tariffs from 30 days to a period as mutually agreed, subject to any special permission required by the Commission. The parties have requested a shortened review period.

Agreement No.: 224–200468–001.

Title: Jacksonville Port Authority/ Marine Transportation Services Sea Barage Group, Inc. Terminal Agreement.

Parties: Jacksonville Port Authority, Marine Transportation Services Sea Barge Group, Inc.

Filing Party: Carl L. Timmer, General Traffic Manager, Jacksonville Port Authority, 2831 Talleyrand Avenue, Jacksonville, Florida 32206.

Synopsis: This modification would permit an increase in land and equipment rental fees.

Agreement No.: 00224–2–585.

Title: Tampa Port Authority/Regency Cruises, Inc. Terminal Agreement.

Parties: Tampa Port Authority ("Authority"), Regency Cruises, Inc. ("Regency").

Synopsis: The Agreement would permit the Authority and Regency to enter into a non-exclusive preferential lease of passenger terminal facilities in Tampa, Florida.

Dated: October 28, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Sectetary.

[FR Doc. 91–26365 Filed 10–31–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

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

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

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

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 101591 AND 102591

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Chevron Corporation, Atlantic Richfield Company, Atlantic Richfield Company	91–1526	10/16/91
W.R. Grace & Co., W.R. Grace & Co., Colowyo Coal Company	92–0006	10/16/91
Thiokol Corporation, Federal-Mogul Corporation, Huck Manufacturing Company	92–0033	10/16/91
Finalco Limited Partnership I, Pacific Telesis Group, Select Leasing	91–1509	10/17/91
Musicland Stores Corporation, Chemical Banking Corporation, Record World, Inc	92–0027	10/17/91
AMAX Inc., Fairbanks Gold Ltd., Fairbanks Gold Ltd	91–1520	10/18/91
AMAX Inc., Ventures Trident II L.P., Gilmore Gold, Inc	91–1521	10/18/91
UniHealth America, St. Joseph Health System, HPA Management Systems, Inc	92–0013	10/18/91
Alfred A. Davis, McKesson Corporation, McKesson Corporation	92–0029	10/18/91
Western Gas Resources Inc., Union Texas Petroleum Holdings, Inc., Union Texas Products Corporation	91–1524	10/21/91
Stuart W. Epperson, Jeffrey H. Smulyan, Emmis FM Broadcasting Corporation of D.C	92–0007	10/21/91
Edward G. Atsinger III, Jeffrey H. Smulyan, Emmis FM Broadcasting Corporation of D.C	92–0008	10/21/91
Dibrell Brothers, Incorporated, B.A.T. Industries plc, Tabasa Tabacos S.A	92–0014	10/21/91
Tokujiro Ishibashi, Foot-Tec Industries, Inc., Foot-Tec Industries, Inc	92–0026	10/21/91
Allied Colloids Group PLC, Ira Marxe, Hydrolabs, Inc	92–0041	10/21/91
Allied Colloids Group PLC, Elwood Mabry, Hydrolabs, Inc	92–0042	10/21/91
Framatome, S.A., Newco, Newco	92–0045	10/21/91
McDermott International, Inc., Newco, Newco	92–0046	10/21/91
Albert W. Lawrence, CRSS Inc., Global Insurance Company	92–0056	10/21/91
Aon Corporation, Phillip J. Buchanan, Curtis Day & Company	92–0060	10/21/91
Continental Medical Systems, Inc., CHS, Inc., CHS, Inc	91–1514	10/22/91
Gene W. Schneider, Tele-Communications, Inc., Tele-Communications, Inc	92–0022	10/22/91
American Telephone and Telegraph Company, American Telephone and Telegraph Company, 80 South Eighth Street Limited Partnership	92–0044	10/22/91
Alleghany Corporation, Armco Inc., Armco Inc	92–0034	10/23/91
Frederick R. Weisman, James J. Murphy,Chapter 11 Trustee-Rosecroft Raceway, The Rosecroft Trotting and Pacing Association, Inc	92–0084	10/23/91
IVAX Corporation, L. Michael Orlove, Orlove Enterprises, Inc	92–0021	10/24/91
Associated Natural Gas Corporation, Apache Corporation, MW Petroleum Corporation	92–0052	10/24/91
Unocal Corporation, Chevron Corporation, Chevron Corporation	92–0077	10/25/91
Chevron Corporation, Unocal Corporation, Union Oil Company of California	92–0078	10/25/91
International Telecharge, Inc., Ronald J. Haan, R. Haan Ventures, Inc	92–0096	10/25/91

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

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 91–26408 Filed 10–31–91; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. 9064]

American Medical Assoc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: This order reopens the proceeding and modifies the Commission's 1979 order [44 FR 64803], by allowing the respondent to give its member organizations the choice of: Supplying the certification originally required: or allowing the AMA to review their codes of ethics and other materials to ensure that they are not restricting truthful advertising, or interfering with the compensation physicians are offered in contracts for their services.

DATES: Final Order issued October 12, 1979. Modifying order issued October 10, 1991.

FOR FURTHER INFORMATION CONTACT: Mark Horoschak, FTC/S–3115, Washington, DC 20580. (202) 326–2756.

SUPPLEMENTARY INFORMATION: In the Matter of American Medical Association. The prohibited trade practices and/or corrective actions as set forth at 44 FR 64803, remain unchanged.

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

Order Reopening and Modifying Order Issued on October 12, 1979

On June 14, 1991, the American Medical Association ("AMA") filed a petition pursuant to Section 5(b) of the Federal Trade Commission Act and Rule 2.51 of the Commission's Rules of Practice requesting that the Commission reopen and modify its Order in Docket No. 9064. The litigated Order,[1] which became final on July 2, 1982, prohibits AMA from restricting truthful, nondeceptive advertising, and from interfering with the amount or form of compensation provided a physician in exchange for his or her professional services in contracts with entities offering physician services to the public. AMA's petition asks the Commission to reopen the Order and delete Paragraph IV(D), which requires AMA to obtain certifications from its state and local societies that they agree to adhere to the requirements of the Order, or, in the alternative, to substitute for it two additional proposed provisions. For the reasons set forth below, the Commission denies AMA's request to modify the Order by deleting Paragraph IV(D) and grants AMA's alternative request to modify the Order by adding the two new provisions proposed by AMA.

[1] *American Medical Association*, 94 F.T.C. 701 (1979), *modified*, 638 F.2d 443 (2d Cir. 1980), *affirmed by an equally divided Court*, 452 U.S. 960 (1982).

I

The Commission issued its Order against AMA after finding that AMA had violated section 5 of the Federal Trade Commission Act by, among other things, restricting the ability of its member Physicians (1) to engage in truthful, non-deceptive advertising and (2) to freely contract to sell their services. In addition to prohibiting AMA itself from engaging in such conduct, the Order contains two provisions designed to ensure that AMA's constituent (state) and component (local) societies also do not illegally restrict physician advertising and contract practices.

The first provision that concerns AMA's affiliates, which is the subject of AMA's petition, is Paragraph IV(D) and it provides that AMA is to:

> [R]equire as a condition of affiliation with respondent that any constituent or component organization agree by action taken by the constituent or component's governing body to adhere to the provisions of Parts I, II, and III of this Order.

The second provision, Paragraph IV (E), requires AMA to disaffiliate any of its constituent or component organizations that AMA knows or has reason to know is engaging in conduct that if engaged in by AMA would violate the Order.

II

Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. § 45(b), provides that the Commission shall reopen an order to consider whether it should be modified if the respondent makes a satisfactory showing that changed conditions of law or fact require such modification. A satisfactory showing sufficient to require reopening is made when a request to reopen identifies significant changes in circumstances and shows that those changes eliminate the need for the order or make continued application of the order inequitable or harmful to competition. Louisiana-Pacific Corp., Docket No. C–2956, Letter to John C. Hart (June 5, 1986), at 4.

If the Commission determines that a petitioner has made the required showing, the Commission must reopen the order to consider whether modification is required and, if so, the nature and extent of such modification. The Commission is not required to reopen the order, however, if the petitioner fails to meet its burden of making the satisfactory showing required by the statute. The petitioner's burden is not a light one, given the public interest in the finality of Commission orders. See Federal Department Stores v. Moitie, 452 U.S. 394 (1981) (strong public interest considerations support repose and finality).

In addition, section 5(b) provides that the Commission has discretion to modify an order when, in its opinion, the public interest requires such modification. Accordingly, § 2.51 of the Commission's Rules of Practice, 16 CFR § 2.51, invites respondents, in petitions to reopen, to show how the public interest warrants the requested modification. To obtain review on this ground, the respondent must demonstrate as a threshold matter some affirmative need to modify the order. Damon Corp., Docket No. C–2916, Letter to Joel E. Hoffman, Esq. (March 24, 1984), at 2 ("Damon Letter") (unpublished). If the respondent satisfies this threshold requirement, the Commission will balance the reasons favoring the modification requested against any reasons not to make the modification. Damon Letter at 2.

AMA argues that there have been changes of fact since the Order was entered sufficient to render Paragraph IV(D) unnecessary. AMA argues that advertising and contract practice by physicians has become commonplace, and that since the Order was issued state and local medical societies have come to understand the antitrust laws and generally have ceased restricting truthful advertising and lawful contract practice.

Even assuming that AMA is correct that such changes have occurred, they are not changes that eliminate the need for Paragraph IV(D) or make continued application of that provision inequitable or harmful to competition.[2] The changes cited by AMA—that state and local medical societies have come to understand the antitrust laws, that they generally have ceased restricting truthful advertising and lawful contract practice, and that advertising and contract practice by physicians has become commonplace—were foreseeable at the time the Order was issued; they were precisely the changed circumstances the Commission intended to achieve when it issued the Order. The

[2] The Commission does not necessarily agree with AMA that the physician services market is free of restrictions on advertising and contract practice. While some state and local medical societies may have brought themselves into compliance with the antitrust laws since the AMA Order, others have not. For example, in 1987 the Commission issued a consented-to order against the Tarrant County Medical Association prohibiting Tarrant County from restricting truthful, nondeceptive advertising. Tarrant County Medical Society, 110 F.T.C 119. Moreover, AMA has offered no evidence that it has taken any steps to determine whether its affiliates unlawfully are restricting physician advertising or contract practice; thus, its statement that the market is free of such restrictions is not supported.

fact that an order is having the effect sought by the Commission offers no basis for eliminating one of its provisions.

AMA also argues that because its state and local societies are not bound by AMA policies, and because AMA does not have the power to disaffiliate them—and thus has no power to force them to agree by action taken by their governing bodies to adhere to the Order—it is impossible for it to comply with Paragraph IV(D). AMA used this argument to challenge both Paragraphs IV(D) and IV(E) when this matter was in litigation; this argument, however, has been considered, and rejected, by the Commission and by the Second Circuit,[3] and AMA has provided nothing to indicate that anything has occurred since the Order was issued that would make its argument any more compelling today. Moreover, AMA's argument is even less persuasive now because since the Order was issued AMA has never tried to comply with Paragraph IV(D)—it has never asked its affiliates for the assurances required by that provision of the Order.

Further, to the extent that AMA's argument is that it cannot comply with Paragraph IV(D) because it is impossible for it to disaffiliate a constituent or component, AMA's argument is not persuasive. There is nothing in AMA's Constitution or Bylaws that prevents AMA's House of Delegates—AMA's decision-making body—from refusing to recognize an affiliate that does not adopt the required resolution. Moreover, such a power is acknowledged by section 6.4014 of AMA's Bylaws, which addresses the issue of a denial of membership in a component or constituent on the basis of "color, creed, race, religion, ethnic origin, national origin, or sex." [4] The fact is that AMA is its House of Delegates. Therefore, even if AMA believes it currently does not have the power to disaffiliate a constituent society, it could, through its House of Delegates, amend its bylaws specifically to provide for disaffiliation of any constituent organization in the event that the constituent, or one of the constituent's local societies, does not adopt the resolution required by Paragraph IV(D). By arguing that "the most that the AMA can do is ask the House of Delegates to adopt a by-law amendment authorizing the House, by a majority vote, to refuse to seat the delegation of a state society that did not adopt the Order," AMA seems to suggest that AMA's House of Delegates is some unrelated third-party. AMA Memorandum in Support of Petition, at 17. This is not the case. The House of Delegates and AMA are the same entity, and it is within AMA's control to do whatever it has to do to bring itself into compliance with the Order.

In support of its impossibility argument, AMA cites two cases, neither of which the Commission finds applicable. In the first case cited by AMA, *Falstaff Brewing Corp.* v. *Miller Brewing Co.*, 702 F.2d 770, 781 (9th Cir. 1983), a district court had held Falstaff in contempt for refusing to produce certain documents. The Ninth Circuit reversed, holding that it was impossible for Falstaff to produce the documents since they most likely were lost and therefore no longer within Falstaff's control. In contrast, as discussed above, it is well within AMA's power to require that its constituent and component organizations adopt the required resolution. Similarly, in *Philadelphia Welfare Rights Organization* v. *Shapp*, 602 F.2d 1114, 1120 (3rd Cir. 1979), the Third Circuit ruled that the district court did not err in modifying a decree where "(d)espite a good faith effort at compliance, circumstances largely beyond the defendants' control and not contemplated by the court or the parties in 1976 put achievement of (court-mandated goals) beyond reach." This case is not applicable because: (1) AMA has made no attempt to comply with Paragraph IV(D); (2) the means of complying are within AMA's control; and (3) no circumstances not contemplated by the court or the parties when the Order was entered put achievement of compliance with Paragraph IV(D) "beyond (AMA's) reach." While an attempt by AMA to disaffiliate a constituent for any reason is likely to provoke some controversy within AMA, Section 6.4014 shows that it is not "impossible."

The Commission is not persuaded either by AMA's argument that changes of fact require the Commission to vacate Paragraph IV(D), or by AMA's argument that it is impossible for it to comply with Paragraph IV(D), and, thus, that it would be inequitable for the Commission to insist upon compliance with that provision. AMA has not met its burden of demonstrating changed circumstances of fact that require the Commission to reopen the Order and vacate Paragraph IV (D), and the Commission therefore denies that part of AMA's request.

III

AMA, in the alternative, requests that the Commission, in the public interest, reopen and modify the Order to add two provisions proposed by AMA. According to AMA's petition, AMA, pursuant to the proposed provisions, would collect information regarding the advertising and contract practices of its affiliates that comprise at least 40% of the total members of its constituents and large components,[5] review the practices to ensure that the constituents and components are not illegally restricting advertising or contract practice, and, if necessary, work with the constituents and components to correct their practices. The remainder of AMA's constituents and large components would supply the resolutions required by Paragraph IV(D). If after two years AMA has fulfilled the obligations imposed upon it by the two proposed provisions, the Commission would consider AMA's obligations satisfied under Paragraph IV(D).

As a general rule the Commission will not reopen an order when it has reason to believe that a respondent is in violation of the provision it seeks to modify. Union Carbide Corporation, 108 F.T.C. 184, 185 (1986). Circumstances that lead the Commission to make an exception to its Union Carbide rule are rare; in most situations the reasons for the policies underlying the Union Carbide rule will clearly outweigh any justifications proffered for the requested modification. Although the Commission believes that AMA currently is in violation of Paragraph IV(D),[6] it has determined that the public interest is served by modifying the Order as AMA requests. In particular, the Commission finds that the modification AMA proposes furthers the purposes of the Order, and the Commission's competition policy, better than does Paragraph IV(D), the provision for which

[3] The Commission found that "AMA's claim that it does not have the power to disaffiliate state and local medical societies is without merit." 94 F.T.C. at 1031–32. The Second Circuit addressed the disaffiliation issue in the context of AMA's argument that the disaffiliation provision violated AMA's due process rights. The court rejected this argument and expressly affirmed Paragraph IV(D), as well as Paragraph IV(E). 638 F.2d at 453.

[4] In the event of repeated discrimination on the basis of "color, creed, race, religion, ethnic origin, national origin, or sex" by an AMA constituent, the AMA House of Delegates may declare the constituent "no longer a constituent member of the American Medical Association."

[5] "Large components" are defined by the proposed modification to include AMA's 250 largest components, which comprise approximately 90% of the members of all AMA components.

[6] AMA's argument that Paragraph IV(D) was intended to apply prospectively—that it was intended to apply only to newly affiliated component and constituent organizations—is without merit. Given the unlikely addition of many new state and local medical societies, such an interpretation would render the provision useless.

AMA seeks modification.

Neither of the two Order provisions that affect AMA's constituents and components require AMA to conduct any review of the constituents' or components' advertising or contract practices. Paragraph IV(D) requires only that AMA's constituent and component organizations agree to adhere to the Order; Paragraph IV(E), while it does require AMA to disaffiliate any of its constituents or components that AMA has reason to believe are engaging in conduct that if engaged in by AMA would violate the Order, does not require AMA to make any efforts to determine whether its constituents and components are engaged in such conduct. The modification AMA proposes, however, will encourage AMA to engage in a program of procompetitive self-regulation and to work with its affiliates to bring them into conformance with the AMA Order. This expands the reach of the Order, furthers the Commission's competition mission, and fosters legitimate, procompetitive self-regulation by AMA consistent with other provisions of the Order.[7]

In addition, AMA's proposed modification will further the public interest because it provides that AMA will forward to the Commission copies of all Codes of Ethics that AMA receives from its affiliates. When a professional organization restricts truthful, nondeceptive advertising, its restrictions often are reflected in its Code of Ethics; the Codes AMA is obligated to forward to the Commission, therefore will provide the Commission with valuable information concerning the compliance of state and local medical societies with the antitrust laws. Finally, because substantially all of AMA's constituents and components will submit to AMA either resolutions agreeing to adhere to the requirements of the Order, or documents reflecting their advertising and contract practices, substantially all of AMA's constituents and components to one degree or another will be re-evaluating their activities to ensure that they do not illegally restrict physician advertising or contract practice.

IV

AMA has not demonstrated any changed conditions of fact or law that would require the Commission to reopen and modify the Order to eliminate Paragraph IV (D). With respect to AMA's alternative request, the Commission finds that the public interest would be served by adding to the Order the two provisions proposed by AMA. The Commission therefore grants AMA's alternative request.

Accordingly, *it is ordered* that the Commission's Order in Docket No. 9064 be reopened and modified to append the following two provisions to Paragraph IV of the Order:

F. (1) within sixty (60) days of the date of receipt by respondent of this modified part IV(F) ("the effective date"), send a letter to each of its constituent organizations ("constituents"), and each of its 250 largest component organizations ("large components"), that gives the constituents and large components the choice of submitting to respondent:

Option 1

A statement adopted by the organization's governing body agreeing to adhere to Parts I, II and III of this Order.

or

Option 2

A copy of the organization's current Code of Ethics, all other codes of ethics to which the organization adheres, and other documents relating to its position on physician advertising and contract practices. Such other documents shall consist of the following materials adopted or in effect at any time from January 3, 1987, that relate to physician advertising or contract practice:

(a) Resolutions and policies;

(b) Rules, guidelines, and regulations, and any interpretations of its, or of AMA's, Code of Ethics;

(c) Formal and informal advice; and

(d) Records of any formal or informal disciplinary proceedings.

(2) within 180 days of the effective date, file with the Commission:

(a) A verified statement that the mailing required by subpart F(1) above was completed;

(b) A list of all constituents and large components that AMA has reason to believe have not provided either the statement required by Option 1 or all documents required by Option 2;

(c) Any resolutions submitted to respondent pursuant to Option 1 and copies of any Codes of Ethics submitted to respondent pursuant to Option 2 in response to the mailing required by subpart F(1) above.

(3) For a period of five (5) years after the effective date, maintain the documents that it receives in response to Option 2.

(4) Within 24 months of the effective date, file with the Commission a report in writing:

(a) Listing all constituents and large components that respondent has reason to believe, from information obtained by respondent in connection with the mailing required by subpart F(1), are engaging in conduct at the time of the report that if engaged in by respondent would violate parts I, II, or III of this Order;

(b) Setting forth the basis for respondent's belief that the constituents and large components identified in subpart (4)(a) are engaging in conduct that if engaged in by respondent would violate parts I, II or III of this Order;

(c) Detailing any changes made by constituents and large components in their Codes of Ethics that respondent submitted to the Commission pursuant to subpart (2)(c) above since the time that such Codes were submitted to the Commission; and

(d) Stating whether it believes it has satisfied the requirements of subparts (1) and (2) of part IV(G) below, and detailing its reasons for such belief.

G. Respondent's obligations under part IV(D) of this Order are stayed for a period of 24 months from the effective date. After such 24 months, the Commission will notify respondent that its obligations under part IV(D) are satisfied if:

(1) Respondent's constituents and large components, to the best of respondent's knowledge, have provided all documents responsive to Option 1 or Option 2 of the letter sent by respondent to such constituents and large components pursuant to subpart (F)(1) above; and

(2) Constituents comprising at least 40% of the total members of respondent's constituents, and large components comprising at least 40% of the total members of all large components have chosen Option 2 in response to the mailing required by subpart (F)(1) above.

[7] The Commission modified the original order in this case, entered by the Administrative Law Judge, to permit AMA to adopt and enforce reasonable guidelines with respect to advertising that would be false or deceptive within the meaning of section 5 of the Federal Trade Commission Act, and to disseminate guidelines proscribing uninvited, in-person solicitation of actual or potential patients, who, because of their particular circumstances, are vulnerable to undue influence. The Commission gave as its reason for so modifying the order that the Commission firmly believed that AMA has a "valuable and unique role" to play with respect to deceptive advertising and oppressive forms of solicitation by physicians. 94 F.T.C. 701, 1029–1030 (1979).

By the Commission, Commissioner Azcuenaga dissenting and Commissioner Yao not participating.

Donald S. Clark,

Secretary.

Dissenting Statement of Commissioner Azcuenaga

In the Matter of American Medical Association, Docket No. 9064

I dissent from the decision of the majority to reopen and modify the order as proposed by the American Medical Association ("AMA"). First, under Union Carbide Corp., 108 F.T.C. 184 (1986), the Commission should deny the petition on the ground that the AMA currently is in violation of the original order. Second, the AMA has failed to show changed conditions of fact or law or public interest considerations that warrant reopening the order. See, *e.g.*, Canada Cement Lafarge Ltd., 111 F.T.C. 590, 591–92 (1989); Louisiana-Pacific Corp., Docket No. C–2956, Letter to John C. Hart (June 5, 1986), at 4. Third, the changes proposed by the AMA and accepted by the majority, while superficially minor, weaken a significant order provision and grant extraordinary and ill-advised concessions to the AMA.

As the Commission concludes and as the AMA admits, AMA is not, and never has been, in compliance with the final order of the Commission issued in 1982. "[G]enerally [the Commission] should refrain from reopening an order provision when there exists reason to believe that a respondent is in violation of the very provision it seeks to modify." Union Carbide, 108 F.T.C. at 185. Certainly, the Commission should refrain from reopening an order that a respondent is currently violating, without articulating good reason for the exception to this principle.

Paragraph IV(D) of the Commission's 1982 Order directs the AMA to require that its constituent and component organizations agree to abide by the order as a condition of affiliation. The AMA vigorously resisted this provision during the litigation, but it was specifically endorsed by the Commission and affirmed by the Court of Appeals. American Medical Association, 94 F.T.C. 701, 1031–32 (1979), modified, 638 F.2d 443, 453 (2d Cir. 1980), aff'd by an equally divided Court, 452 U.S. 960 (1982). Nonetheless, as early as October 1982, the AMA communicated to the Commission its refusal to comply with this paragraph of the order, and it has openly and consistently refused to comply since that time.

Despite the AMA's longstanding and flagrant violations of the order, the majority creates an exception to the general rule set forth in Union Carbide, on the ground that the modification "furthers the purposes of the Order, and the Commission's competition policy better than" the existing order. Order of the Commission at page 6. The exception is so broad that it swallows the rule. In Union Carbide, the Commission concluded:

> The public interest is served by denying a request for reopening and modification of an order provision while compliance issues remain unresolved. This action by the Commission will enhance its ability to ensure compliance with this order and other outstanding orders, enhance the deterrent effect of all orders and of Section 5 itself, and serve to discourage 'self-help' order modifications.

108 F.T.C. at 187. The point of Union Carbide is that even beneficial and procompetitive modifications should be rejected while the respondent is violating the order.

Reopening an order may be warranted in the public interest when the respondent shows as a threshold matter some affirmative need to modify the order, usually a competitive disadvantage resulting from the order. Absent a showing, there is no justification for revisiting a final order. The majority here states the correct standard but fails to apply it. The AMA does not allege competitive disadvantage and even if we might infer a showing of need from the AMA's petition, the discussion of the majority regarding the AMA's ability to comply with the order indicates that the AMA has not shown need sufficient to justify reopening. See Order Reopening and Modifying Order in Docket No. 9064 at 3 and 6. The public interest in repose and the finality of orders is threatened when the decisionmaker is willing to reopen and modify orders without the requisite showing.

The modification that the Commission has granted does not strengthen, but rather seriously weakens, Paragraph IV(D), a key part of the order. Indeed, this order modification contains virtually unprecedented concessions to a respondent. The most remarkable concession appears in new Paragraph IV(G)(1), which provides that if the AMA satisfies two modest conditions within two years "the Commission will notify [AMA] that its obligations under Part IV(D) are satisfied." In most orders, the respondent is obligated to send compliance reports to the Commission, but this order, for no reason, turns the usual practice on its head and obligates the Commission to report to, and essentially to bless, the AMA.

In this order modification, the Commission relinquishes its order enforcement role to the AMA. In effect, the Commission appoints the AMA guardian of the proverbial chicken coop despite its years of defying the order. The AMA, not the FTC, will be the entity evaluating whether practices violate the order. Paragraph IV(F) of the modified order contemplates that the AMA will undertake a survey of antitrust compliance by some of its constituents and components. Although private efforts to monitor antitrust compliance are to be encouraged, they have not in the past been acceptable substitutes for compliance with Commission orders.

The modified order requires the AMA to obtain certain relevant documents related to advertising regulations from its affiliates, but does not provide for Commission access to these important documents. The AMA is not required to turn these documents over to the Commission or to make them available for inspection by the Commission. Instead of providing all relevant documents, the AMA will turn over to the Commission only the affiliates' Codes of Ethics, which are widely distributed public documents.

Virtually every order entered by the Commission in recent history has contained a requirement that the respondent make the relevant compliance documents available for inspection during reasonable business hours. The reason for insisting on access to the relevant documents is to enable the Commission to verify compliance. The order, as modified, includes no such provision. The majority provides no explanation of its decision to omit the usual means to verify compliance.

Few possible explanations for the action of the majority present themselves. Has the majority decided implicitly to overrule Union Carbide without acknowledging it or explaining why? Has the Commission changed its firm and long-standing commitment to the finality and enforcement of its orders? I have searched in vain for a reason I can understand, regardless of whether I agree with it. Unfortunately, no creditable explanation comes to mind. At best, today's decision is an aberration, not to be repeated. For the sake of the Commission's overall law enforcement program, I can only hope it will be so viewed.

I emphatically dissent.

[FR Doc. 91–26409 Filed 10–31–91; 8:45 am]

BILLING CODE 6750–01–M

[File No. 902 3017]

Dr. Scott M. Ross, d/b/a Mpls. Center for Cosmetic and Laser Surgery; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Minneapolis cosmetic surgeon to disclose in certain future advertisements the existence of risks from—and the expected recovery period following —his cosmetic surgery services, and to have scientific evidence supporting results claims.

DATES: Comments must be received on or before December 31, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Richard Kelly, FTC/H–200, Washington, DC 20580. (202) 326–3304.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Dr. Scott M. Ross d/b/a Mpls. Center for Cosmetic and Laser Surgery (hereinafter referred to as respondent), is willing to enter into an agreement containing an Order to cease and desist from the use of the acts and practices being investigated.

It Is Hereby Agreed By and between respondent and counsel for the Federal Trade Commission that:

1. Respondent is a Minnesota resident with his principal place of business located at: 910 E. 26th Street, suite 425, Abbott Northwestern Medical Campus, Minneapolis, Minnesota 55404.

2. Respondent admits all the jurisdictional facts set forth in the attached draft complaint.

3. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the attached draft complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to respondent: (a) Issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following Order to cease and desist in disposition of the proceeding; and (b) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other Orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-upon Order to respondent's address as stated in this agreement shall constitute service. Respondent waives the right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

7. Respondent has read the attached draft complaint and the following Order and he understands that once the Order has been issued, he will be required to file one or more compliance reports showing that it has fully complied with the Order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

Definition

For purposes of this Order, the phrase, "advertising, promotion or offering for sale," does not include any statement made by respondent or his representatives, agents or employees to a patient after the patient has agreed to purchase the service represented.

I

It Is Ordered That respondent, Dr. Scott M. Ross, d/b/a Mpls. Center for Cosmetic and Laser Surgery, and his agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, or offering for sale of liposuction or any surgical procedures, do forthwith cease and desist from:

(1) Representing, directly or by implication, that results depicted in advertising are typical of results that can actually be obtained through a cosmetic surgery procedure unless such is the case;

(2) Representing, directly or by implication, through any advertisement containing before-and-after photographs, that said photographs accurately depict the results of actual surgical procedures unless he possesses a reasonable basis for such representation, which shall, at a minimum, consist of documentary evidence that the photographs appearing in the advertisement depict actual results of surgical procedures, without enhancement through makeup, padding or other non-surgical improvements in the photographs;

(3) Otherwise misrepresenting, in any manner, directly or by implication, the results that can be achieved with liposuction or any other cosmetic surgical procedure;

(4) Representing, through any advertisement, directly or by implication, that liposuction, or any

other cosmetic surgery procedure that entails risk of serious medical complications, is safe unless said representation is accompanied by a clear and prominent disclosure that the procedure is a surgical procedure involving the risk of adverse medical complications;

(5) Representing, through any advertisement, directly or by implication, that any cosmetic improvement through surgery can be obtained in any specified period of time unless said representation includes the length of the typical postoperative recovery period or is accompanied by a clear and prominent disclosure of the typical length of said recovery period; and

(6) Otherwise misrepresenting, in any manner, directly or by implication, either the recovery times or the liklihood of serious adverse complications associated with liposuction or any other cosmetic surgery procedure.

II

It Is Further Ordered That respondent shall distribute a copy of this Order to all of respondent's present and future officers, agents, representatives, and employees of respondent having responsibilities with respect to the subject matter of this Order.

III

It Is Further Ordered That respondent shall maintain for a period of three (3) years after the date the representation was last made, and make available to the Federal Trade Commission staff upon request for inspection and copying, all materials possessed and relied upon to substantiate any claim or representation covered by this Order, and all test reports, studies, surveys or information in his possession or control or of which he has knowledge that contradict, qualify or call into question any such claim or representation.

IV

It Is Further Ordered That respondent shall promptly notify the Commission of the discontinuance of his present business and, for a period of five (5) years from the date of service of this Order, shall promptly notify the Commission of each affiliation with a new business or employment, each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of the respondent's duties and responsibilities in connection with the business or employment.

V

It Is Further Ordered That respondent shall, within sixty (60) days after the service of this Order, submit to the Commission a report, in writing, setting forth in detail the manner and form in which respondent has complied with all requirements of this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted subject to final approval an agreement to a proposed consent order from Scott M. Ross, M.D., d/b/a Mpls. Center for Cosmetic and Laser Surgery ["MPLS"], of Minneapolis, Minnesota. MPLS offers liposuction surgery services to the public and Dr. Ross has widely advertised his clinic's services in the Minneapolis-St. Paul metropolitan area by placing an advertisement for liposuction surgery in local newspapers and periodicals.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The Commission has alleged that Dr. Ross' advertisements misrepresented the efficacy and nature of liposuction surgery. First, the advertisements contained two side-by-side photographs with the words "43 years" under the first and "25 minutes" under the second. The implied representation is that the photographs are before-and-after photographs portraying the typical results of a 25 minute liposuction procedure. Second, the advertisements represent that liposuction is unqualifiedly "safe" and can achieve results in "a matter of minutes." These claims imply that liposuction is a minor medical procedure without serious risks or the need for lengthy post-operative healing.

The Commission believes that these claims are deceptive. The before-and-after photographs do not fairly represent the results that can be typically achieved in an actual 25 minute liposuction procedure, and respondent has provided no reasonable basis for such representation. Moreover, the representations that liposuction is a minor medical procedure without serious risks or the need for lengthy post-operative healing are deceptive. Liposuction is an invasive, surgical procedure with potentially serious adverse complications and risks that include shock, infection, and embolism, as well as the risks that accompany any procedure that involves the use of anesthesia. In addition, the procedure usually produces localized swelling and pain at the area where the fat was removed and healing usually involves significant discomfort and takes several weeks to occur. In some cases, discoloration and dimpling may remain for even longer periods. It is important to note that the allegations do not concern the quality of the cosmetic surgery services provided to consumers but address only the accuracy of certain advertising claims.

The proposed consent order seeks to address the alleged misrepresentations cited in the accompanying complaint by requiring that respondent not represent that certain results are typical, unless such is the case. The order also requires that, if respondent represents that a before-and-after photograph depicts the results of actual cosmetic surgical procedures, he must then have a reasonable basis for such representation. In addition, the proposed order requires that, if Dr. Ross represents that liposuction, or any other cosmetic surgery procedure that entails the risk of serious adverse complications, is safe or can produce results in a specified time period, he must also disclose that the procedure is surgical in nature and can result in adverse medical complications. Moreover, the represented time period must include the length of the expected recovery period or be accompanied by a disclosure of the length of the recovery period. The order further prohibits any other misrepresentations of the results that can be achieved, the recovery times, or the likelihood of serious adverse complications associated with liposuction or any other cosmetic surgical procedure.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 91-26410 Filed 10-31-91; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3346]

Nippon Sheet Glass Co., Ltd., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, the respondents, suppliers of wired glass, for a period of ten years, to obtain prior Commission approval before engaging any other entity in North America into any joint manufacturing, marketing or distribution agreement that involves selling to customers located in the United States.

DATES: Complaint and Order issued October 7, 1991.[1]

FOR FURTHER INFORMATION CONTACT: Robert Doyle, Jr., FTC/S-2308, Washington, DC 20580. (202) 326-2682.

SUPPLEMENTARY INFORMATION: On Wednesday, July 24, 1991, there was published in the **Federal Register**, 56 FR 33935, a proposed consent agreement with analysis In the Matter of Nippon Sheet Glass Company, Ltd., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 91-26411 Filed 10-31-91; 8:45 am]

BILLING CODE 6750-01-M

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

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Meeting

AGENCY: General Accounting Office.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended, notice is hereby given that a meeting of the Federal Accounting Standards Advisory Board will be held on Monday, November 18, 1991, from 9 a.m. until 4 p.m. in room 7313 of the General Accounting Office, 441 G St. NW., Washington, DC.

The agenda for the meeting will consist of a review of the minutes of the October 16 meeting, discussion of assets in Department of Defense revolving funds, discussion of staff study on inventory accounting, discussion of credit reform, a status report on physical assets projects, and a status report on user needs and objective project. We advise that other items may be added to the agenda; interested parties should contact the Staff Director for more specific information.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Staff Director, 401 F St. NW., room 302, Washington, DC 20001, or call (202) 504-3336.

DATES: November 18, 1991.

ADDRESSES: 441 G St., NW., room 7313, Washington, DC 20548.

Authority: Federal Advisory Committee Act. Pub. L. No. 92-463, section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101-6.1015 (1990)

Dated: October 29, 1991.

Ronald S. Young,

Staff Director.

[FR Doc. 91-26425 Filed 10-31-91; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office for Civil Rights; Statement of Organization, Functions and Delegations of Authority

Part A, Chapter AT (Office for Civil Rights) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (45 FR 47479, 7/15/80; 45 FR 82721, 12/16/80; 47 FR 4348, 1/29/82; 51 FR 41154-57, 11/13/86; and 54 FR 33613, 8/15/89) has revised its regional functional statement to ratify operational changes which have taken place. The headquarters offices and divisions remain intact. The changes are as follows: Under Part A., Paragraph, "4. Office of the Regional Manager", delete paragraphs "A. Investigations Division (called Investigations Branch in smaller regions)" and "B. Voluntary Compliance and Outreach Division (called Voluntary Compliance and Outreach Branch in smaller regions)" in their entirety.

A. Investigative Functions

Under the authorities the office enforces; serves as complaint intake unit; conducts complaint investigations of health and human services institutions to eliminate unlawful discrimination and to ensure equal opportunity for the beneficiaries of Federal financial assistance provided by the Department of Health and Human Services; determines compliance of recipients; advises Regional Manager on critical enforcement action; provides assistance to recipients for corrective action; and monitors implementation of corrective plans; coordinates enforcement activities with civil rights attorney, OPDIV regional officials, State, and other Federal agencies, and, as appropriate, headquarters offices and divisions; solicits regional/area civil rights attorney's legal opinion on investigations as the Regional Manager deems appropriate; and processes all complaints received, including determination of jurisdiction and completeness.

B. Voluntary Compliance and Outreach Functions

Conducts project reviews in order to assist in identifying potential compliance problems; negotiates voluntary compliance with health and human services institutions; advises the Regional Manager on critical compliance matters; coordinates voluntary compliance activities with OPDIVs and STAFFDIV5, regional officials, State, local and other Federal agencies and, as appropriate, headquarters offices and divisions; provides assistance and outreach services to recipients, beneficiaries and organizations as requested or referred; represents the regional office to promote understanding of the Office's responsibilities and voluntary compliance programs; establishes and maintains effective relationship with the Offices of Governors, State and local officials in order to provide advice and assistance to them on civil rights matters; establish and maintain liaison with the Regional Office of the Secretary to assist in providing technical assistance on architectural barrier problems; maintains close liaison with the Regional Office of the Secretary in carrying out speaking engagements, media appearances and interviews.

(Regions III, IV, and VI carry out OCR's functional responsibilities under an organizational structure consisting of an Investigations Division and Voluntary Compliance and Outreach Division. Regions I, II, V, VII, VIII, IX, and X carry out both the investigative and voluntary compliance and outreach functions under an organization structure consisting of operations branches (1, 2, or 3) whereby each branch has responsibility for the full range of activities under the OCR Regional Manager. In Regions I, II, V, VII, VIII and X, the Branch Chiefs report through a Division Director. In Region IX, they report directly to the Deputy Regional Manager.)

I hereby ratify and affirm any actions previously taken by the OCR Director or any OCR officials which affect the realignment of OCR's regional structure.

Dated: October 4, 1991.

Elizabeth M. James,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 91-26433 Filed 10-31-91; 8:45 am]

BILLING CODE 7510-35-M

Centers for Disease Control

Board of Scientific Counselors, National Center for Infectious Diseases; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Time and Dates: 8:30 a.m.-5:30 p.m., November 18-19, 1991.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Closed: 4:30 p.m.-5:30 p.m., November 18, and 1 p.m.-3 p.m., November 19. All other portions open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters to Be Discussed: The agenda will focus on updates of the NCID Strategic Plan, internal program planning and review activities, disease priorities, and action planning. Other agenda items for the meeting will include announcements, consideration of minutes of the June 10-11, 1991, meeting, a report from the Acting Director, NCID; discussion of research initiatives, and future board activities. Beginning at 4:30 p.m. through 5:30 p.m., November 18, and 1 p.m. through 3 p.m., November 19, the board will discuss certain matters the public disclosure of which would constitute a violation of sections 552b(c)(2) and 552b(c)(6) of title 5 U.S. Code related to personal privacy. Therefore, pursuant to said provisions and the determination of the Director, CDC, this portion of the meeting will not be open to the public.

The discussion will include presentations by community, state, and Federal representatives. Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person For More Information: James M. Monroe, Director, Office of Program Resources, Office of the Director, NCID, CDC, Mailstop C-14, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639-3473 or FTS 236-3473.

Dated: October 29, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91-26486 Filed 10-31-91; 8:45 am]

BILLING CODE 4160-18-M

Public Health Service

Orphan Products Board; Public Meeting

AGENCY: Office of the Assistant Secretary for Health, DHHS.

ACTION: Notice of public meeting; Orphan Products Board.

SUMMARY: The Department of Health and Human Services and the Office of the Assistant Secretary for Health announce that a public meeting hosted by the Orphan Products Board will be held on December 4, 1991 in Washington, DC. The purpose of this meeting is to bring together representatives of various organizations concerned about improving the health of patients with rare diseases in order to identify opportunities for coordination and cooperation.

The meeting will be chaired by Dr. Sandra Mahkorn, Deputy Assistant Secretary for Public Health Policy. It will commence at 9 a.m., in room 729G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

ADDRESSES: Organizations wishing to participate should contact Dr. John V. Kelsey, Executive Secretary, Orphan Products Board, Food and Drug Administration (HF-35), room 8-73, 5600 Fishers Lane, Rockville, Maryland 20857. Requests can be in writing or by phone and should be received by November 8, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. John V. Kelsey, Executive Secretary, Orphan Products Board, Food and Drug Administration (HF-35), 5600 Fishers Lane, Rockville, Maryland 20857; (301) 443-4903.

SUPPLEMENTARY INFORMATION: An orphan drug is a drug for the treatment of a rare disease or condition which either (1) has a prevalence in the United States of under 200,000 persons or (2) has a higher prevalence and for which there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. The Orphan Drug Act, Public Law 97-414 enacted on January 4, 1983, as amended, established a number of incentives to encourage the development and marketing of orphan drugs.

The Act also established an Orphan Products Board to promote the development of drugs and devices for rare disease or conditions and to assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients with rare diseases.

The Orphan Products Board is chaired by the Assistant Secretary for Health. The Board is composed of representatives from the Department of Health and Human Services (DHHS), the Department of Veterans Affairs (DVA), the National Institute for Disability and Rehabilitation Research (NIDRR) and the Department of Defense (DoD). Within DHHS, representatives from the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), the Centers for Disease Control (CDC), the Food and Drug Administration (FDA), the Health Care Financing Administration (HCFA), the National Institutes of Health (NIH), the Social Security Administration (SSA) and the Office of the Assistant Secretary for Health (OASH) serve on the Board.

The purpose of the meeting will be to establish a consortium of interested organizations to identify areas of coordination and cooperation in promoting the development of products to treat rare diseases and conditions. Goals, objectives, operating procedures and membership will be discussed. The participants will identify topics for discussion by the consortium. It is expected that the group will begin consideration of a few topics that participants will identify in advance of the meeting.

The consortium will be organized as a subcommittee of the Orphan Products Board. It is expected that the membership of the group will vary depending on the topic to be discussed.

It is the intention of the Orphan Products Board that this be a working group with participation at any meeting not exceeding 15 persons. While no organization will be prevented from attending, each organization may send only one representative, and organizations with common interests are strongly urged to send only one person to represent all.

The annual open public meeting of the Orphan Products Board, chaired by Dr. James O. Mason, Assistant Secretary for Health, will take place the following day, December 5, 1991 and will include an opportunity for public comment from any interested party. That meeting will also be in Washington, DC and information on that meeting can also be obtained from Dr. John V. Kelsey, Executive Secretary of the Orphan Products Board at (301) 443–4903. The December 5th open public meeting would be the appropriate place for individuals and organizations, concerned with orphan drug and rare disease issues, to make statements for the record.

Those organizations wishing to participate in the consortium meeting should contact the Executive Secretary of the Orphan Products Board in writing or by phone. The request for participation should be submitted before November 8, 1991, and should include:

a. Name, address, and telephone number of the organization desiring to participate;

b. Name, title and telephone number of individual who will be representing that organization;

c. Suggestions for possible topics for the consortium to explore.

For those unable to attend the consortium meeting, comments and suggestions for discussion topics may be sent to the Executive Secretary of the Orphan Products Board at the address listed above.

Dated: October 22, 1991.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 91–26346 Filed 10–31–91; 8:45 am]

BILLING CODE 4160–17–M

Orphan Products Board; Public Meeting

AGENCY: Office of the Assistant Secretary for Health, DHHS.

ACTION: Notice of public meeting; Orphan Products Board.

SUMMARY: the Department of Health and Human Services and the Office of the Assistant Secretary for Health announce that a public meeting of the Orphan Products Board will be held on December 5, 1991 in Washington, DC. It will commence at 9 a.m., in room 800, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. During the afternoon session, there will be an opportunity for interested persons to present information and views on the issue of orphan products development. The meeting will be chaired by Dr. James O. Mason, Assistant Secretary for Health and Chairman, Orphan Products Board.

ADDRESSES: Written requests to participate should be sent to Dr. John V. Kelsey, Executive Secretary, Orphan Products Board, Food and Drug Administration (HF–35), room 8–73, 5600 Fishers Lane, Rockville, Maryland 20857, and should be received by November 22, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. John V. Kelsey, Executive Secretary, Orphan Products Board, Food and Drug Administration (HF–35), 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4903.

SUPPLEMENTARY INFORMATION: An orphan drug is a drug for the treatment of a rare disease or condition which either (1) has a prevalence in the United States of under 200,000 persons or (2) has a higher prevalence and for which there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. The Orphan Drug Act, Public Law 97–414 enacted on January 4, 1983, as amended, established a number of incentives to encourage the development and marketing of orphan drugs.

The Act also established an Orphan Products Board to promote the development of drugs and devices for rare diseases or conditions and to assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients with rare diseases.

The Orphan Products Board is chaired by the Assistant Secretary for Health. The Board is composed of representatives from the Department of Health and Human Services (DHHS), the Department of Veterans Affairs (DVA), the National Institute for Disability and Rehabilitation Research (NIDRR) and the Department of Defense (DoD). Within DHHS, representatives from the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), the Centers for Disease Control (CDC), the Food and Drug Administration (FDA), the Health Care Financing Administration (HCFA), the National Institutes of Health (NIH), the Social Security Administration (SSA) and the Office of the Assistant Secretary for Health (OASH) serve on the Board. This public meeting will have three purposes:

1. An update will be provided on the activities of the Orphan Products Board, and members of the Board will discuss their agencies' recent orphan product development activities.

2. A ceremony will be held to honor the recipients of the Public Health Service Award for Exceptional Achievement in Orphan Products Development. This award recognizes the efforts of individuals who have contributed to the development of drugs and other products for rare diseases or conditions. The awards will be presented by the Assistant Secretary for Health.

3. In keeping with its mandate to foster actions within the Department to facilitate the research, development, and approval of orphan products and to coordinate government activities with the private sector in order to achieve these goals, the Board encourages presentations by members of the public on any issues involving the development and availability of orphan products.

Those persons wishing to make a presentation at the meeting on the third topic should submit a written request for a time slot to the Executive Secretary of the Orphan Products Board. The request for participation should be submitted before November 22, 1991, and should include:

a. Name, address, and telephone number of the person desiring to make a presentation;

b. Affiliation, if any;

c. A summary of the presentation; and

d. The approximate amount of time required for the presentation (no more than 10 minutes, unless more time can be justified).

Individuals and organizations with common interests or proposals are urged to coordinate or consolidate their presentations. Joint presentations may be requested of persons or organizations with a common interest. The time available will be allocated among the individuals who request an opportunity for a presentation. Formal written statements or extensions of remarks (five copies) may be presented to the Chairman on the day of the meeting for inclusion in the record of the meeting. At the discretion of the Chairman, and as time permits, any person in attendance may be heard. This time will, most likely, be at the end of the scheduled session. For those unable to attend the meeting, comments may be sent to the

Executive Secretary of the Orphan Products Board at the address listed above.

Dated: October 22, 1991.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 91-26347 Filed 10-31-91; 8:45 am]

BILLING CODE 4160-17-M

Indian Health Service; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HG (Indian Health Service) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Public Health Service (PHS), chapter HG, Indian Health Service (IHS), 52 FR 47053-67, December 11, 1987, as most recently amended at 56 FR 46200, September 10, 1991, is amended to reflect the revision of the Office of Administrative Support to more accurately reflect current activities in the Area Office.

Under Chapter HG, Section HG-20, Functions, after the statement for the IHS Area Office (HGF), Information and Resources Management Programs, amend the statement for the Billings Area Office (HGFN) as follows:

(1) Under the heading Office of Administrative Support (HGFN2), delete the statement and insert the following:

Office of Administrative Support (HGFN2). (1) Plans, coordinates, implements, and evaluates administrative management support activities; (2) advises the Area Director on all matters relating to Area management and administrative support activities; (3) provides guidance to the Area on program policy interpretation in budget formulation and execution, preparation of program planning and budgeting data, and financial management of grants and contracts; (4) participates in the allocation of the Area's human and manpower resources and funding resources; (5) interprets policy and provides direction in the conduct of the Area's management; (6) maintains necessary liaison with various components of the IHS and PHS and other activities in the furtherance of the Area's management activities; (7) plans, coordinates, implements, and evaluates the Area Directives Control program; (8) coordinates the implementation of the Area internal control procedures for administrative functions; (9) plans, coordinates, implements, and evaluates the Area third party billing and collection program (Medicare/Medicaid, private insurance), and medical records; and (10) plans, organizes, and conducts medical and administrative data analysis concerning medical costs and standards of care.

Dated: October 23, 1991.

Everett R. Rhoades,

Assistant Surgeon General Director.

[FR Doc. 91-26392 Filed 10-31-91; 8:45 am]

BILLING CODE 4160-16-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on October 18, 1991.

(Call Reports Clearance Officer on (310) 965-4149 for copies of package).

1. Application for Child's Insurance Benefits—0960-0010. The information collected on the form SSA-4 is used to determine eligibility for child's Social Security benefits. The respondents are children of fully insured wage earners.

Number of Respondents: 1,740,000
Frequency of Response: 1
Average Burden Per Response: 12.84 minutes
Estimated Annual Burden: 372,417 hours

2. Application For Retirement Insurance Benefits—0960-0007. The information collected on the form SSA-1 is used to determine eligibility for retirement insurance benefits. The respondents are individuals applying for retirement insurance benefits.

Number of Respondents: 1,560,000
Frequency of Response: 1
Average Burden Per Response: 10.5 minutes
Estimated Annual Burden: 273,000 hours

3. Notification of Projected Completion Date—0960-0429. The information collected on the form SSA-891 is used to notify disability hearing units (DHU) that a specific hearing case will not be completed and forwarded to the DHU as originally scheduled. The respondents are State Disability Determination Staffs.

Number of Respondents: 10
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 1 hour

4. Subpoena—Disability Hearing—0960-0428. The information collected on the form SSA-1272 is used to subpoena evidence or testimony needed in disability hearings. The respondents are State and Federal hearings officers.

Number of Respondents: 28
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 14 hours

5. Budget Summary and Certification—0960-0422. The information collected on the form SSA-870 is used by the Social Security Administration to budget the necessary funds to sustain the State Disability Determination Services (DDS'). The respondents are State DDS'.

Number of Respondents: 54
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 27 hours

Laura Oliven,

OMB Desk Officer.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: October 21, 1991.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 91-25800 Filed 10-31-91; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-1917; FR-2934-N-50]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Corps of Engineers: Gary B. Paterson, Chief, Base Realignment and Closure Office, Directorate of Real Estate, 20 Massachusetts Ave. NW, rm. 4133, Washington, DC 20314–1000; (202) 272–0520; GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501–0067; (These are not toll-free numbers.)

Dated: October 25, 1991.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 11/01/91

Suitable/Available Properties

Buildings (by State)

Alabama

Former (P) Fort Rucker
Rucker Blvd. (Andrews Ave. W.)
Ft. Rucker Co: Dale AL 36330–
Landholding Agency: GSA
Property Number: 549130009
Status: Excess
Comment: 1000 sq. ft. concrete block bldg. on 32.17 acres, needs rehab, most recent use—storage/research lab, easement/permit required from Ft. Rucker.
GSA Number: 4–GR–AL–470–A

California

Ukiah Latitude Observatory
432 Observatory Avenue
Ukiah Co: Mendocino CA 95482–
Landholding Agency: GSA
Property Number: 549120003
Status: Excess
Comment: 1517 sq. ft., one story brick/wood frame, easement restrictions, bldg. on 2.6 acres, possible asbestos on pipe insulation.
GSA Number: 9–C–CA–1277

Maryland

Chesapeake Bay Hydraulic Model
Matapeake Co: Queen Annes MD 21666–
Landholding Agency: GSA
Property Number: 549040007
Status: Excess
Comment: 617280 sq. ft., one story metal building, ceiling height over 40 ft., lease restriction, Corps will maintain an antenna on property.

Ohio

U.S. Naval Reserve Center
170 Ashland Road
Mansfield Co: Richland OH 44902–
Landholding Agency: GSA
Property Number: 779010075
Status: Excess
Comment: 29000 sq. ft., 1 story quonset hut structure, most recent use—office, recreation and storage, needs rehab, land leased from City through September 1992.
GSA Number: 2–N–OH–783

Land (by State)

California

Receiver Site
Dixon Relay Station
7514 Radio Station Road
Dixon CA 95620–9653
Location: Approximately .16 miles southeast of Dixon, CA.
Landholding Agency: GSA
Property Number: 549010042
Status: Excess
Comment: 80 acres, 1560 sq. ft. radio receiver bldg. on site, subject to grazing lease, limited utilities.
GSA Number: 9–2–CA–1162–A

Receiver Site
Delano Relay Station
Route 1, Box 1350
Delano Co: Tulare CA 93215–
Location: 5 miles west of Pixley, 17 miles north of Delano.
Landholding Agency: GSA
Property Number: 549010044
Status: Excess
Comment: 81 acres, 1560 sq. ft.—radio receiver bldg. on site, subject to grazing lease, potential utilities.
GSA Number: 9–2–CA–1308

Illinois

Portion, JAAP
Joliet Army Ammunition Plant Co: Will IL 60436–

Location: Approx. 15 miles south of Joliet on the east side of Interstate 55
Landholding Agency: GSA
Property Number: 549130019
Status: Excess
Comment: 1.25 acres, most recent use—aquatic sampling station, subject to occasional flooding.
GSA Number: 2–GR(1)–IL–450–FF

Kansas

Titan II Missile Site 8
McConnell AFB
4.8 miles east of Winfield on State Rd. 15
Winfield Co: Cowley KS 67156–
Landholding Agency: GSA
Property Number: 549130010
Status: Excess
Comment: Approx. 25.44 acres, most recent use—missile site complex
GSA Number: 7–D–KS–477–N

Kentucky

Portion of Tract 409–2
Upper Cumberland River Basin
Pineville Co: Bell KY 40977–
Location: Lots 1 & 2 in Blk 9 of Hull and Barclay Addition at the intersection of Mtn. View and Tenn. Ave.
Landholding Agency: GSA
Property Number: 549130008
Status: Excess
Comment: 0.0965 acres/4201 sq. ft., most recent use—flood control project.
GSA Number: KY–0066–PP

Oregon

Tonque Point Job Corps Center
(Portion of)
Astoria Co: Clotsop OR 97103–
Location: On the east by highway 30; on the west by city of Astoria's sewage treatment plant.
Landholding Agency: GSA
Property Number: 549010027
Status: Excess
Comment: 22.77 acres, land slopes, some soil erosion, potential utilities.
GSA Number: 9–L–OR–508M

Land
Portland Co: Multnomah OR 97217–
Location: Near SE corner of North Union Ave. and North Marine Dr.
Landholding Agency: GSA
Property Number: 549120006
Status: Excess
Comment: 63000 sq. ft. (140×450) land, most recent use—part of highway right-of-way, access is restricted.

South Carolina

Georgetown Wayside Park
U.S. 701
Approx. 9–10 mi north of Georgetown
Georgetown Co: Georgetown SC 29440–
Landholding Agency: GSA
Property Number: 549130011
Status: Excess
Comment: 31.74 acres, approx. 1150 ft. of highway frontage through the property
GSA Number: 4–GR–SC–521

Virginia

St. Helena Annex
(former portion)
Treadwell and South Main Streets
Norfolk Co: Norfolk VA 23523–
Landholding Agency: GSA
Property Number: 549120005
Status: Excess
Comment: 4.36 acres, most recent use—paved parking lot
GSA Number: 4–GR(2)–VA525AA

Washington

Seaplane Base
Naval Air Station—Whidbey Island
Oak Harbor Co: Island WA 98278–
Landholding Agency: GSA
Property Number: 549130007
Status: Excess
Comment: 5.472 acres, most recent use—roadway and outside boat storage, easement restrictions
GSA Number: 9–N–WA–585M

Suitable/Unavailable Properties

Buildings (by State)

New York

Fog Signal Building
Tibbetts Point Light Station
Cape Vincent Co: Jefferson NY 13618–
Landholding Agency: GSA
Property Number: 549040015
Status: Excess
Comment: 792 sq. ft., 1 story brick, most recent use—power house, lease restrictions.
GSA Number: 2–U–NY–799

Washington

Mica Peak Radio Station
Approx. 15 miles SE of Spokane
Spokane Co: Spokane WA 99210–
Landholding Agency: GSA
Property Number: 549120065
Status: Excess
Comment: 25×48 ft. on 0.4 acres one story concrete block, most recent use—radio communications, only accessible from late June to October
GSA Number: 9–B–WA–895

Unsuitable Properties

Buildings (by State)

Illinois

Former Martin L. King Center
3312 West Grenshaw Avenue
Chicago Co: Cook IL 60624–
Landholding Agency: GSA
Property Number: 549130005
Status: Excess
Reason: Other
Comment: Extensive deterioration
GSA Number: 2(R)–F–IL–691

Tennessee

U.S. Army Reserve Center
920 Cherokee Avenue
Nashville Co: Davidson TN 37027–
Landholding Agency: GSA
Property Number 549120066
Status: Excess
Reason: Other
Comment: Extensive deterioration
GSA Number: 4–D–TN–630

Washington

Former Barlett Residence
Star Route, Seatons Grove
Elmer City Co: Okanogan WA 99124
Landholding Agency: GSA
Property Number: 549130001
Status: Excess
Reasons: Other
Comment: Structurally unsound
GSA Number: 9–I–WA–439–0
Former Beck Residence
Star Route County Road
Elmer City Co: Okanogan WA 99124–
Landholding Agency: GSA
Property Number: 549130002
Status: Excess
Reasons: Other
Comment: Structurally unsound
GSA Number: 9–I–WA–439–0

Land (by State)

Alaska

Nike Site, Tract 104
Jig Battery "D"
Eielson Defense Area
Fairbanks Co: Fairbanks AK 99701–
Landholding Agency: GSA
Property Number: 549120001
Status: Excess
Reason: Other
Comment: Property is landlocked.
GSA Number: 9–D–AK–506–AD

Colorado

Beaver Creek Well Site
Approx. 1½ miles east of Brush
Brush Co: Morgan CO 80723–
Landholding Agency: GSA
Property Number: 549120064
Status: Excess
Reason: Floodway
GSA Number: 7–B–CO–604

Florida

Cape St. George Reservation
Fort Rucker, AL Installation #12050
Apalachicola Co: Franklin G C FL 32320–
Landholding Agency: COE—BC
Property Number: 329140001
Status: Unutilized Base closure
Reason: Floodway, Other
Comment: Inaccessible

Georgia

(P) Dobbins AFB/(P) NAS Atlanta
N.E. Quadrant of Intersection between Fairground & South Cobb Drive
Marietta Co: Cobb GA 30060—
Landholding Agency: GSA
Property Number: 549140001
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–GR–GA–557 & 4–GR–GA–587A

Kentucky

E.C. Clements Job Corps Cntr.
1 Mile East of Morganfield, KY
Morganfield Co: Union KY 42437–
Landholding Agency: GSA
Property Number: 549120002
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone
GSA Number: 4–L–KY–432–E
Tract 701
Upper Cumberland River Basin
U.S. 421
Harlan Co: Harlan KY 40831–
Landholding Agency: GSA
Property Number: 549120063

Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 4–D–KY–600

[FR Doc. 91–26212 Filed 10–31–91; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–91–969; FR–3106–D–01]

Redelegation of Authority

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Redelegation of authority.

SUMMARY: This redelegaton of authority redelegates from the Assistant Secretary for Housing—Federal Housing Commissioner to the Director, Office of Mortgage Insurance Accounting and Servicing, Office of the Comptroller, and to each Debt Management Center ("DMC") Director of the HUD Debt Management Centers in Albany, New York, Chicago, Illinois, and Seattle, Washington the power and authority to execute documents necessary to transfer title in and to any debt, contract, claim or security instrument obtained by the Secretary in connection with the payment of claims under title I of the National Housing Act and to execute settlement agreements in connection with the collection of any such debt, contract, claim, or security instrument.

EFFECTIVE DATE: October 25, 1991.

FOR FURTHER INFORMATION CONTACT: Paulette Porche, Director, title I Accounting and Servicing Division, Department of Housing and Urban Development, 451 7th Street, SW., room 3130, Washington, DC 20410, (202) 708–0540 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On September 12, 1983, at 48 FR 40959, the Assistant Secretary for Housing—Federal Housing Commissioner redelegated to each Regional Administrator and Field Office Manager the power and authority granted to him by the Secretary of Housing and Urban Development (on June 18, 1976 at 41 FR 24755) to execute documents necessary to transfer title in and to any debt, contract, claim or security instrument obtained by the Secretary in connection with the payment of claims pursuant to section 2(c)(2) of title I of the National Housing Act (12 U.S.C. 1703(c)(2)) and to execute settlement agreements in connection with the collection of any such debt, contract, claim or security instrument. On May 22, 1989, at 54 FR 22033, the Department published a notice in the **Federal Register** which consolidated all delegations of authority to the Assistant Secretary for Housing—Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner. This notice of consolidated delegations of authority, however, neither incorporated by reference nor revoked the September 12, 1983 redelegation of authority from the Assistant Secretary for Housing—Federal Housing Commissioner to Regional Administrators and Field Office Managers.

Subsequent to September 12, 1983, HUD established three multi-regional Debt Management Centers ("DMC's"), to collect debts owed to the Department which result from defaulted title I loans assigned to the Department. The DMC's are located in Albany, New York, Chicago, Illinois, and Seattle, Washington. This redelegation grants to the Director, Office of Mortgage Insurance Accounting and Servicing, Office of the Comptroller, and to each of the three DMC Directors the power and authority to execute documents necessary to transfer title in and to any debt, contract, claim or security instrument obtained by the Secretary in connection with payment of claims under title I of the National Housing Act and to execute settlement agreements in connection with collection under title I. This redelegation revokes the September 12, 1983 redelegation to the Regional Administrators and Field Office Managers except that the Regional Administrators for Regions V and X (Chicago and Seattle, respectively) and the Manager of the Albany Field Office shall retain the power and authority conferred by the September 12, 1983 redelegation. The Director of the Office of Mortgage Insurance Accounting and Servicing is also delegated the authority to issue implementing polices and procedures with respect to functions specified in this redelegation. This redelegation does not in any way include the power and authority to transfer title to real property. The effect of this redelegation is for the Director of the Office of Mortgage Insurance Accounting and Servicing and the Directors of each DMC, as well as the Regional Administrators for Regions V and X (Chicago and Seattle, respectively) and the Manager of the Albany Field Office, to have the power and authority over the transfer of title I security interests and the power and authority over debt collection settlement agreements, such as compromise agreements and write offs.

Section A. Redelegation of Authority

There is hereby redelegated to the Director of the Office of Mortgage Insurance Accounting and Servicing, Office of the Comptroller, and to the Directors of the HUD Debt Management Centers in Albany, New York, Chicago, Illinois and Seattle, Washington the power and authority to execute documents necessary to transfer title in and to any debt, contract, claim, or security instrument obtained by the Secretary in connection with the payment of claims under title I of the National Housing Act and to execute settlement agreements in connection with the collection of any such debt, contract, claim or security instrument. The authority to issue policies and procedures with respect to the above-stated functions is also redelegated to the director of the Office of Mortgage Insurance Accounting and Servicing.

Section B. No Further Redelegation

The authority redelegated under section A may not be further redelegated.

Section C. Revocation of Authority

The authority redelegated on September 12, 1983, at 48 FR 40959, to Regional Administrators and Field Office Managers is hereby revoked, except with regard to the Regional Administrators for Regions V and X (Chicago and Seattle, respectively) and the Manager of the Albany Field Office, which shall retain all of the power and authority conferred by that redelegation.

Authority: Section 2(c)(2) of the National Housing Act, 12 U.S.C. 1703(c)(2); Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 25, 1991.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 91–26345 Filed 10–31–91; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–060–09–4212–13; MTM–79331]

Realty Action; Private Exchange-Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management proposes to exchange public land for private land with William M. Anderson. This proposed exchange involves only the surface

estate. The public and private lands are in Valley County.

SUMMARY: The public will gain private lands which will provide legal yearlong access to approximately 13,000 acres of isolated public land on Timber Creek and the east side of the Brunt Lodge Wilderness Study Area. Disposal of the public lands is in conformance with the Valley Resource Area Management Framework Plan, 1978. Disposal of public lands with relatively low public value will help meet the management goals for the area where the public will gain private land. This exchange is in the public interest. The Bureau of Land Management advised state and local officials about the proposed exchange.

The following described public lands are suitable for disposal by exchange under section 206 of the Federal Land Management Act of 1976, 43 U.S.C. 1716.

Principal Meridian Montana

T. 24 N., R. 34 E.,
Section 18, Lots 1 and 2, NE¼NW¼, SE¼NW¼

Totaling 151.04 acres.

The United States will exchange this public land to acquire the following described private land:

Principal Meridian Montana

T. 25 N., R 34 E.,
Section 31, Lots 3 and 4, NE¼SW¼, SE¼SW¼

Total 160.02 acres.

DATES: Interested parties may submit comments to the Bureau of Land Management on or before December 16, 1991. The State Director will weigh adverse comments and may vacate or change this notice. Without any objections this notice will become the final determination of the Department of Interior.

FOR COMMENTS AND FURTHER INFORMATION CONTACT: Submit your comments on this proposed exchange to the address shown below. Information related to the exchange, including the environmental assessment, is available at the same address, Valley Resource Area, Route 1–4775, Glasgow, MT 59230.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws. This notice also segregates from the mining laws, but not from exchange under section 206 of the Federal Land Policy and Management Act of 1976. The segregation will last for two years from the date of publication of this notice. This exchange is subject to:

1. A reservation to the United States of a right-of-way for ditches or canals under 43 U.S.C. 945.

2. The reservation to the United States of all federal minerals will occur.

3. An equalization payment of $300.00 will be paid by the Bureau of Land Management.

4. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

5. The proposed completion date is December 1991.

6. The following right-of-way reservation of record to the Bureau of Land Management: MTM–73500.

Dated: October 24, 1991.

B. Gene Miller,
Acting District Manager.

[FR Doc. 91–26341 Filed 10–31–91; 8:45 am]
BILLING CODE 4310–DN–M

[CO–920–92–4111–15; COC44706]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease COC44706, Cheyenne County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from March 1, 1991, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188 (d) and (e), the Bureau of Land Management is proposing to reinstate the lease effective March 1, 1991, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: October 24, 1991.

Janet M. Budzilek,
Chief, Fluid Minerals Adjudication Section.

[FR Doc. 91–26340 Filed 10–31–91; 8:45 am]
BILLING CODE 4310–JB–M

[CA–940–4214–10; CAS 047048, CAS 048492, CAS 055834]

Expiration of Withdrawal and Opening of Land; California

AGENCY: Forest Service, Department of Agriculture.

ACTION: Notice.

SUMMARY: Public Land Order No. 2496, which withdrew 937.58 acres of National Forest System lands from surface entry and mining for U.S. Department of Agriculture, Forest Service, campgrounds and a roadside zone for a period of 10 years, expired September 12, 1971 by operation of law. The lands will be opened to surface entry and mining. They have been and remain open to mineral leasing.

EFFECTIVE DATE: December 2, 1991.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825, (916) 978–4820.

SUPPLEMENTARY INFORMATION: Public Land Order No. 2496, published in the **Federal Register**, 26 FR 8812, September 19, 1961, withdrew 937.58 acres of National Forest System lands for a period of 10 years for campgrounds and a roadside zone. The lands were withdrawn from settlement, sale, location, and entry under the general land laws, including the mining laws, subject to valid existing rights.

The lands are described as follows:

Humboldt Meridian

Serial No. CAS 047048

T. 17 N., R. 8 E.,
sec. 16, SW¼SW¼;
sec. 21, NW¼NW¼.

Serial No. CAS 048492

A strip of land 200 feet on either side of the centerline of the Klamath River Forest Highway Route 2 (California Highway Route No. 46), through the following legal subdivisions:

T. 16 N., R. 7 E.,
sec. 1, lots 2 to 5, inclusive, and 7 to 9, inclusive.
T. 16 N., R. 8 E.,
sec. 5, lots 5, 6, SW¼NE¼, SW¼NW¼, N½NW¼SW¼, SE¼NW¼SW¼, NE¼SW¼, NW¼SE¼;
sec. 6, lot 7, SE¼SW¼, W½SE¼, N½NE¼SE¼, SW¼NE¼SE¼;
sec. 7, W½E½.

Mount Diablo Meridian

Serial No. CAS 055834

T. 46 N., R. 12 W.,
sec. 5, lot 12.

The areas described aggregate 937.58 acres in Siskiyou County.

At 10 a.m. on December 1, 1991, the lands shall be opened to such forms of

disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Ed Hastey,

State Director.

[FR Doc. 91-26342 Filed 10-31-91; 8:45 am]

BILLING CODE 4310-10-M

[WY-030-4212-13; WYW 117481]

Realty Action; Exchange; WY; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Proposed Exchange of Public Lands in Fremont County for Private Lands in Fremont County; Correction.

SUMMARY: This notice will correct the Notice of Realty Action for the proposed exchange of public lands in Fremont County for private lands in Fremont County published in the **Federal Register** on September 19, 1991 (56 FR 47487).

1. On page 47487, second column, change "public surface estate" to "public surface and mineral estate exclusive of leasable minerals".

2. On page 47487, third column, change "private surface estate" to "private surface and mineral estate exclusive of leasable minerals".

Dated: October 21, 1991.

Jack Kelly,

Area Manager.

[FR Doc. 91-26380 Filed 10-31-91; 8:45 am]

BILLING CODE 4310-22-M

[WY-930-4214-10; WYW 28908]

Termination of Segregative Effect of Withdrawal Application; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action notifies the public that application Serial No. WYW 28908, filed by the U.S. Forest Service, Department of Agriculture, for the withdrawal of approximately 195 acres of land for the Crandall Creek Administrative Site and 170 acres of land for the Libby Lewis Recreational Area has been cancelled at the request of the applicant agency. The lands had been segregated from location and entry under the general mining laws. The segregative effect of this withdrawal application terminated on October 20, 1991.

EFFECTIVE DATE: October 20, 1991.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003, (307) 775-6115.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations contained in 43 CFR 2310.2-1(e), at 9 a.m. on October 20, 1991, the following described lands were relieved of the segregative effect of withdrawal application WYW 28908.

Sixth Principal Meridian, Wyoming
Crandall Creek Administrative Site
Shoshone National Forest

T. 56 N., R. 106 W.,
sec. 9, S½NE¼NE¼, N½SW¼NE¼, E½SW¼SW¼NE¼, SE¼SW¼NE¼, SW¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, W½NE¼SW¼, NW¼SW¼, SE¼NE¼SW¼, NE¼SE¼, E½NW¼SE¼, E½NW¼NW¼SE¼, SW¼NW¼SE¼.

The area described contains approximately 195 acres in Park County.

Libby Lewis Recreation Area
Medicine Bow National Forest

T. 16 N., R. 79 W.,
sec. 17, W½W½NE¼, E½NW¼, SE¼SW¼NW¼, NE¼NW¼SW¼, N½NE¼SW¼, NW¼NW¼SE¼.

The area described contains 170 acres in Albany County.

Dated: October 24, 1991.

F. William Eikenberry,

Associate State Director.

[FR Doc. 91-26343 Filed 10-31-91; 8:45 am]

BILLING CODE 4310-22-M

National Park Service

Saint-Gaudens National Historic Site Cornish, NH, General Management Plan; Intent to Prepare an Environmental Impact Statement

In accordance with section 102(c) on the National Environmental Policy Act of 1969, the National Park Service is preparing an environmental impact statement (EIS) for the general manager plan (GMP) for Saint-Gaudens National Historic Site, Sullivan County, Cornish, New Hampshire. The GMP/EIS will consider alternatives and related impacts of various approaches to such management activities as cultural and natural resources protection (including an extensive fine arts/museum collection); visitor use and services; maintenance and facilities development; and boundary adjustments that may be needed to preserve the site's integrity. The array of alternatives to be presented in the EIS will also include one of No Action.

This Notice of Intent invites public comment on impacts and alternatives as input to the National Park Service preparation of the EIS; however, no additional public meetings will be held during this continuation period of scoping/information gathering, which was initiated in a June 1991 open house information meeting, followed by three public meetings: July 11 (Windsor, VT), July 12 (Hanover, VT) and July 24 (Cornish, NH). A series of Newsletters are also being issued to provide for continued information.

This Notice of Intent sets a closing date of December 6, 1991, by which time the National Park Service expects to receive all additional input appropriate to its preparation of the EIS.

The first document produced accompanying the draft GMP will be a correlating draft EIS. After a minimum of 30 days public and interagency review, comments will be considered and a final EIS will be prepared for another 30 days review. Following the final EIS, the overall public involvement will be synthesized for consideration with all known aspects of the environmental impact as the basis for the preparation of the Record of Declaration (ROD). This ROD will conclude the National Environmental Policy Act procedures and serve as a guidance document to the preparation of the final GMP and subsequent implementation work.

The responsible official for this EIS is Gerald D. Patten, Regional Director,

North Atlantic Region, National Park Service, Written comments should be sent to: John Dryfhout, Superintendent, Saint-Gaudens National Historic Site, Rural Route #3, Cornish, New Hampshire 03745.

Dated: October 25, 1991.

Gerald D. Patten,

Regional Director.

[FR Doc. 91-26335 Filed 10-31-91; 8:45 am]

BILLING CODE 4310-70-M

Delaware and Lehigh Navigation Canal National Heritage Corridor

AGENCY: National Park Service; Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

DATE: November 22, 1991 @ 1:30 p.m.

INCLEMENT WEATHER RESCHEDULE DATE: None.

ADDRESS: Allentown City Hall, 435 Hamilton Street, Fifth Floor Conference Room, Allentown, PA.

FOR FURTHER INFORMATION CONTACT: Millie Alvarez, Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 10 East Church Street, Room P-208, Bethlehem, PA 18018 (215) 861-9345.

SUPPLEMENTARY INFORMATION: The Commission was established by PL 100-692 to assist the Commonwealth and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historical and natural resources. The Commission will report to the Secretary of the Interior and to Congress. The agenda for the meeting will focus on the planning process.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items. The statement should be addressed to National Park Service, Mid-Atlantic Regional Office, Division of Park and Resource Planning, 260 Custom House, 200 Chestnut Street, Philadelphia, PA, 19106, attention: Deirdre Gibson.

Minutes of the meeting will be available for inspection four weeks after the meeting, at the above-named address.

Joe R. Miller,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 91-26336 Filed 10-31-91; 8:45 am]

BILLING CODE 4310-70-M

Advisory Commission of the San Francisco Maritime National Historical Park; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Advisory Commission of the San Francisco Maritime National Historical Park will be held at 10 a.m. (p.s.t.) on Thursday, November 21, 1991, at Building F, Fort Mason Center, San Francisco, California. The Advisory Commission was established for a period of ten years by Public Law 100-348 to provide advice on the management and development of the park.

The members of the Commission are as follows:

Mr. John M. Barbieri
Mr. Neil D. Chaitin
Mr. Al J. Falchi
Mr. Patrick J. Flanagan
Ms. Kathryn Gualtieri
Mr. Gunnar Lundeberg
Mrs. Frances M. McAteer
Ms. Nan McGuire
Dean Phil Nash
Mr. David E. Nelson
Admiral Thomas J. Patterson, USMS (Ret.)
Mr. Gordon W. Spencer

The main agenda items at this public meeting will be the election and installation of officers, a presentation on the progress of the park's General Management Plan, the setting of goals for the Commission, the establishment of committees, and presentations by park staff.

The meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval by the Commission. Upon approval, a transcript will be available by contacting the Superintendent, San Francisco Maritime National Historical Park, Fort Mason, Building E, Second Floor, San Francisco, California 94123.

Dated: October 22, 1991.

Lewis S. Albright,

Regional Director, Western Region.

[FR Doc. 91-26337 Filed 10-31-91; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent Corporation and address of principal office: McKesson Corporation, One Post Street, San Francisco, CA 94104.

2. Wholly owned subsidiaries which will participate in the operations and State(s) of incorporation:

Corporation	State of incorporation
Beldere Corporation	California.
California Golden State Finance Company.	California.
Calox International, S.A.	Panama.
Calox Ecuatoriana, S.A.	Ecuador.
Corporation of America	California.
Crocker Plaza Company	Delaware.
First Aid, Inc.	California.
Zee Medical, Inc.	California.
Flex-Master Technology Holdings, Inc.	California.
Foremost de Venezuela, S.A.	Venezuela.
Foremost Iran Corporation	California.
Foremost-McKesson Property Company, Inc.	California.
DC Land Company	California.
DCAZ Land Company	Delaware.
Foremost Homes Hawaii, Ltd.	Hawaii.
HF Land Company	Delaware.
Foremost Shir, Inc	California.
Foremost Tehran, Inc	California.
Golden State Company, Ltd	California.
Golden State Insurance Company Limited.	Bermuda.
Golden State Milk Products Company.	California.
Goodman Manufacturing Company.	Pennsylvania.
International Dairy Engineering Co. of Asia, Inc.	Nevada.
Macfor International Finance Company.	Delaware.
McKesson Canada Inc	Canada.
Medis Health and Pharmaceutical Services Inc.	Canada.
Good Neighbour Pharmacy Ltd.	Canada.
Laurentian Laboratories Limited.	Canada.
Horizon Agencies Ltd.	Canada.
Royal Hawaiian Perfumes (Canada) Inc.	Canada.
Royal Hawaiian Perfumes (1981) Inc.	Canada.
Smith's Drug Store (Digby) Limited.	Canada.
McKesson International Investment Corp.	Delaware.
Gemtrim Limited	England.
N.V. Medicopharma	The Netherlands.
McKesson Service Merchandising Co.	Indiana.
Arkwood Products, Inc	Minnesota.
Carlstrom Foods, Inc	Missouri.
Northern Merchandise Co., Inc.	Washington.

Corporation	State of incorporation
Western States Wholesale, Inc.	South Dakota.
McKesson Water Products Company.	California.
Alhambra National Water Co., Inc.	California.
Hygeia Bottled Water, Inc	Texas.
Millbrook Distributors, Inc	Massachusetts.
Mohawk Liqueur Corporation	Michigan.
Monterey Bay Company, Inc	California.
National Pharmacy Company	California.
Penn-Chem Corporation	Pennsylvania.
PCS, Inc	Delaware.
PCS of New York, Inc	New York.
PCS Services, Inc	Delaware.
Pharmaceutical Card System Canada, Inc.	Canada.
Rawson Drug & Sundry Company.	California.
Very Important Products, Inc	California.
West Wholesale Drug Co	Delaware.
Zee Medical Canada, Inc	Canada.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 91-26288 Filed 10-31-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31933 (Sub. 1)] [1]

Missouri Pacific Railroad Co.—Trackage Rights Exemption—Southern Pacific Transportation Co.

Southern Pacific Transportation Company (SP) has agreed to grant overhead trackage rights to Missouri Pacific Railroad Company (MP) between milepost 70.76 at Navasota, TX, and milepost 96.93 at Bryan, TX (local trackage rights are granted between milepost 94.46 at College Station and milepost 96.93 at Bryan), a distance of 26.17 miles in Grimes and Brazos Counties, TX. The trackage rights will be effective on or as soon as possible after October 23, 1991.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on Joseph D. Anthofer, Missouri Pacific Railroad Company, 1416 Dodge Street, #830, Omaha, NB 68179.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: October 23, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-26243 Filed 10-31-91; 8:45 am]

BILLING CODE 7035-01-M

[1] MP originally filed this as a petition to exempt its lease of SP's line. Finance Docket No. 31933, *Missouri Pac. R. Co.—Lease Exemp.—S. Pac. Transp. Co.* Since the transaction involves the acquisition of trackage rights by MP over SP's line and is based on a written agreement that is not filed or sought in conjunction with any rail consolidation proceeding, it properly falls under the class exemption in 49 CFR 1180.2(d)(7). Accordingly, MP's petition in Finance Docket No. 31933 will be dismissed.

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514-4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or Method of Collection

(1) Nationwide Law Enforcement Training Needs Assessment.

(2) No form number, Federal Bureau of Investigation.

(3) On occasion.

(4) State or local governments. The purpose of this collection is to survey approximately 2,700 state and local law enforcement agencies in the U.S. to determine specific job activities where Federal training assistance is most needed.

(5) 900 annual responses at 1 hour per response.

(6) 900 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on this item is encouraged.

Dated: October 29, 1991.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 91-26436 Filed 10-31-91; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.
The title of the recordkeeping/reporting requirement. The OMB and/or Agency identification numbers, if applicable. How often the recordkeeping/reporting requirement is needed. Whether small businesses or organizations are affected. An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.
The number of forms in the request for approval, if applicable.
An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 523–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Departmental Management—Bureau for International Labor Affairs.
Legalized Population Follow-up Survey.
One-time survey.
Individuals or households.
4,650 respondents; .92 hours per response; 4,263 hours.

This is a follow-up survey of aliens legalized under the Immigration Reform and Control Act of 1986, and interviewed previously by the INS in 1989. It will form the foundation for DOL's contribution to the Congressionally-mandated Presidential report on the Legalized Population.

Departmental Management—Assistant Secretary for Policy.
Evaluation of DOL Handbook of Laws, Regulations and Technical Assistance Services.
One-time report.
Individuals or households; Businesses or other for-profit; non-profit institutions; Small businesses or organizations 60 respondents; 30 minutes per response; 30 hours.

The Department of Labor is developing a handbook to provide the regulated community with information on the laws, regulations and technical assistance services administered by the Department. This information collection will help the Department tailor the handbook to the needs of this community, especially small businesses.

Occupational Safety and Health Administration.
Methylene Chloride (DCM).
On occasion.
Businesses or other for-profit; Small businesses or organizations. 217 respondents; 17 burden hours; .0783 hours per response; No Forms.

The proposed Methylene Chloride standard and its information collection requirements will provide protection for employees from the adverse health effects associated with occupational exposure to Methylene Chloride. The standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the Methylene Chloride standard.

Methylene Chloride (DCM) (Construction).
On occasion.
Businesses or other for-profit; Small businesses or organizations. 3 respondents; 1 burden hour; .194 hours per response; no form.

The proposed Methylene Chloride standard and its information collection requirements will provide protection for employees from the adverse health effects associated with occupational exposure to Methylene Chloride. The standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the Methylene Chloride standard.

Methlene Chloride (DCM) (Maritime).
On occasion.
Businesses or other for-profit; Small businesses or organizations. 2 respondents; 1 burden hour; .1212 hours per response; no form.

The proposed Methylene Chloride standard and its information collection requirements will provide protection for employees from the adverse health effects associated with occupational exposure to Methylene Chloride The standard requires that OSHA have access to various records to ensure that employers are complying with disclosure provisions of the Methylene Chloride standard.

Revision

Occupational Safety and Health Administration.
Onsite Consultation Agreements.
1218–0110.
On occasion.
State or local governments; businesses or others for profit; small businesses or organizations.
Respondents 42,357; total hours 126,349; average number of hours varies per response.

States participating in the OSHA 7(c)(1) Consultation Program are required to prepare an annual cooperative agreement. In addition, as part of the consultation services provided, State consultants are required to furnish written reports of their safety and health findings to the employer. Employers receiving the service are required to notify the consultation State office of the correction of serious hazards found during the consultation visit.

Regulatory Requirements

1. Notify OSHA enforcement authority * * * if employer fails to take corrective action (29 CFR 1908.6(f)(4).
2. Prepare and transmit to the employer a written report of the consultant's findings (29 CFR 1908.6(g).
3. Establish and maintain an organized consultant performance monitoring system (29 CFR 1908.9(b).
4. Compile and maintain an organized consultant performance monitoring system (29 CFR 1908.9(c)).
5. Prepare and submit Annual Cooperative Agreement (29 CFR 1908.10(c)).
6. Notify the consultation project manager, by written confirmation, of the correction of the hazards unless correction of the serious hazards is verified by direct observation by the consultant (29 CFR 1908.6(f)(5)).
7. Inform any OSHA or state Compliance Officer who arrives that a consultant visit is in progress (29 CFR 1908.7(b)(1)).
8. Post a notice of participation (29 CFR 1908.7(b)(4)).

Req. No. and affected public	Respondents	Frequency	Ave. time per response	Total hrs.
1 State Govt	5	On occasion	30 minutes	3
2 State Govt	20,522	On occasion	5 hrs	102,610

Req. No. and affected public	Respondents	Frequency	Ave. time per response	Total hrs.
	20,522	On occasion	.82 hrs	16,828
3 State Govt	65	On occasion	47 hrs	548
	420	Annually	6 hrs	2,520
4 State Govt	65	On occasion	30.8 hrs	2,002
5 State Govt	48	On occasion	2 hrs	96
6 businesses	20,522	On occasion	.08 hrs	1,642
7 businesses	1,130	On occasion	.09 hrs	102
8 businesses		No burden hrs associated with this activity		
126,349 Total Hours.				

States participating in the OSHA 7(c)(1) Consultation Program are required to prepare an annual cooperative agreement. In addition, as part of the consultation services provided, State consultants are required to furnish written reports of their safety and health findings and recommendations to the employer. Employers receiving the service are required to notify the consultation State office of the correction of serious hazards found during the consultation visit.

Extension

Occupational Safety and Health Administration.
The Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101; The Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200; Brief Guide to Recordkeeping.
Requirements for Occupational Injuries and Illnesses;
Recordkeeping Guidelines for Occupational Injuries and Illnesses.
1218–0176.
On occasion.
Individuals or households; Federal agencies or employees. 61,000 respondents; 2 minutes per response; 2013 hours, 975,000 recordkeepers; 31.8 minutes; 516,516 hours.

The Occupational Safety and Health Act of 29 CFR part 1904 prescribe that certain employers maintain, and report when requested, records of job-related injuries and illnesses. The data are needed by OSHA and the Bureau of Labor Statistics to report on and carry out enforcement of standards to guarantee workers' safety and health on the job. Currently 1,500,000 employers maintain records; however, only 65% have recordable cases.

Employment Standards Administration.
Notice of Termination, Suspension, Reduction, or Increase in Benefit Payments.
1215–0064; CM–908.
On occasion.
Businesses or other for profit; small businesses or organizations 325 respondents; 2,600 total hours; 12 min. per response; 1 form Coal mine operators who pay monthly benefits must notify DCMWC of any change in benefits and the reason for that change. DCMWC uses this notification to monitor payments to beneficiaries.

Signed at Washington, DC this 25th day of October, 1991.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 91–26381 Filed 10–31–91; 8:45 am]

BILLING CODE 4510–26–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 12, 1991.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 12, 1991.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 21st day of October 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
BI Industries, Inc./Waterbury Felt (wkrs)	Oriskany, NY	10/21/91	10/09/91	26,451	Paper maker felts.
Brockton Sole & Plastics, Inc. (wkrs)	Brockton, MA	10/21/91	08/29/91	26,452	Shoe components.
Chasco Ent. (Co.)	Independance, LA	10/21/91	09/17/91	26,453	Consulting services.
Copperweld Steel Co., Inc. (wkrs)	Warren, OH	10/21/91	10/08/91	26,454	Hot rolled, cold finished bars.
Core Laboratories (wkrs)	Tulsa, OK	10/21/91	10/07/91	26,455	Analysis data of oil and gas industry.
Dayton Castings (wkrs)	Dayton, OH	10/21/91	09/26/91	26,456	Castings.
Dowell Schlumberger, Inc. (wkrs)	Englewood, CO	10/21/91	09/30/91	26,457	Oil drilling.
Down East Casuals (wkrs)	Lewiston, ME	10/21/91	10/04/91	26,458	Men's and women's dress shoes.
Down East Manufacturing (wkrs)	Livermore Falls, ME	10/21/91	10/04/91	26,459	Men's and women's dress shoes.
Dynapac Mfg. (wkrs)	Hackettstown, NJ	10/21/91	10/01/91	26,460	Heavy construction equipment.

APPENDIX—Continued

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Dynapac Mfg. (wkrs)	Schertz, TX	10/21/91	10/01/91	26,461	Heavy construction equipment.
GE Aerospace-GESD (IUE)	Morrestown, NJ	10/21/91	10/07/91	26,462	Caps and tricks asemblies.
GLK Contract Services, Inc. (IBT)	Houston, TX	10/21/91	10/07/91	26,463	Contract—bus drivers.
Halliburton Logging Services, Inc. (wkrs)	Midland, TX	10/21/91	10/03/91	26,464	Oil and gas services.
Harris Corporation (IUE)	Mountaintop, PA	10/21/91	10/10/91	26,465	Computer chips.
Johnson and Johnson Consumer ACTWU	Skillman, NJ	10/21/91	10/09/91	26,466	Band-Aids, orthopedic products.
Joshua Meier Corp. (Co.)	North Bergen, NJ	10/21/91	10/02/91	26,467	Sheet protectors.
Kensington Knit Fashions (wkrs)	Long Island City, NY	10/21/91	10/01/91	26,468	Knit dresses and suits.
Pilgrim Sportswear (wkrs)	Summit Hill, PA	10/21/91	10/07/91	26,469	Children's knitted wear.
Pittsburgh Cut Flower Co. (wkrs)	Gibsonia, PA	10/21/91	10/09/91	26,470	Cut flowers.
Premium Building Products USWA	West Salem, OH	10/21/91	10/11/91	26,471	Vinyl building siding.
Tri-Teck Controls (Co.)	Midland, TX	10/21/91	09/24/91	26,472	Motor controller for oilfield equipment.
WSI, dba Weaver Wireline Services (wkrs)	Snyder, TX	10/21/91	10/03/91	26,473	Oil well services.

[FR Doc. 91-26383 Filed 10-31-91; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-25,800]

Falconer Glass Industries, Inc., Falconer, NY; Negative Determination Regarding Application for Reconsideration

By an application dated September 16, 1991, Local #81 of the Aluminum, Brick and Glass Workers, AFL-CIO-CLC requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on August 28, 1991 and published in the **Federal Register** on September 10, 1991 (56 FR 46206).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the workers at Falconer Glass produced fabricated glass—architectural glass for glass builders, tempered glass used in building construction and stock sheet glass mirrors used in the construction and furniture industries.

The union claims that glass beveling and edging machinery were shipped to Mexico and that production was imported and sold under the Falconer label by Marketplace Lighting.

Investigation findings show that the machinery shipped to Mexico was for the production of small glass pieces used in lighting fixtures and chandeliers. The Falconer facility never produced the glass components for lighting fixtures and chandeliers.

Company officials indicated that worker separations occurring at Falconer were the result of the slowdown in building and mall construction. Official Government figures confirm the building slowdown. U.S. Department of Commerce data show that private nonresidential building construction decreased 12 percent in the first five months of 1991 compared to the same period in 1990.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. This test is generally demonstrated through a survey of the workers' firm's customers. The Department's survey of Falconer's major customers shows that none reported purchases of imported fabricated glass.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 24th day of October 1991.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 91-26384 Filed 10-31-91; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-26,142]

Sinclair Radio Laboratories, Inc., Tonawanda, NY; Negative Determination Regarding Application for Reconsideration

By an application dated October 7, 1991, one of the petitioners requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on September 27, 1991 and published in the **Federal Register** on October 9, 1991 (56 FR 50950).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the workers at Sinclair Radio produce communication equipment and the workers are not separately identifiable by product or component.

The petitioner claims that the workers met the decreased sales or production requirement. The petitioner also claims of company imports and the changing of labels to show U.S. production instead of Canadian.

Investigation findings show increased sales and production of communication equipment from Tonawanda in 1990 compared to 1989 and in the first six months of 1991 compared to the same period in 1990. If the communication equipment is disaggregated into

antennas and filters, there is still an increase in sales and production for both products in 1990 compared to 1989. Only in the first half of 1991 is there a decrease in filter sales and production but that is the result of the timing of orders and not imports.

Company officials indicated that the re-labeling issue just is not true. In any event company imports would not form a basis for certification when there is increased sales and production of communication equipment at Tonawanda.

Worker separations at Tonawanda are the result of restructuring and subcontracting out work to other domestic producers.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 23rd day of October 1991.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 91-26385 Filed 10-31-91; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1991, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers.

Volume I

Connecticut:
CT91-3 (Nov. 1, 1991)..... p. 78a, p. 78b-78f.

West Virginia:
WV91-13 (Nov. 1, 1991)..... p. 1477, p. 1478.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Connecticut:
CT91-1 (Feb. 22, 1991)..... p. 63, pp. 64-76.

Florida:
FL91-13 (Feb. 22, 1991)..... p. 129, pp. 130-131.

Georgia:
GA91-3 (Feb. 22, 1991)..... p. 223, pp. 224-227.
GA91-34 (Feb. 22, 1991)..... p. 293, p. 294.

New Hampshire:
NH91-1 (Feb. 22, 1991)..... p. 677, p. 678.
NH91-3 (Feb. 22, 1991)..... p. 685, pp. 686-690.

New Jersey:
NH91-3 (Feb. 22, 1991)..... p. 721, p. 724.
NJ91-4 (Feb. 22, 1991)..... p. 745, pp. 747-756b.

Pennsylvania:
PA91-7 (Feb. 22, 1991)..... p. 1019, pp. 1020-1028b.
PA91-8 (Feb. 22, 1991)..... p. 1029, p. 1032.
P91-9 (Feb. 22, 1991)..... p. 1039, pp. 1040-1046.
PA91-12 (Feb. 22, 1991)..... p. 1057, pp. 1058-1060b.
PA91-19 (Feb. 22, 1991)..... p. 1093, pp. 1094-1098.
PA91-21 (Feb. 22, 1991)..... p. 1107, p. 1108-1110b.
PA91-23 (Feb. 22, 1991)..... p. 1123, p. 1126.
PA91-24 (Feb. 22, 1991)..... p. 1129, p. 1131.

South Carolina:
SC91-23 (Nov. 1, 1991)..... p. ALL.

Volume II

Illinois:
IL91-1 (Feb. 22, 1991)..... p. 69, p. 73.
IL91-14 (Feb. 22, 1991)..... p. 195, p. 196.

Kansas:
KS91-8 (Feb. 22, 1991)..... p. 373, p. 374.

Michigan:
MI91-1 (Feb. 22, 1991)..... p. 441, pp. 447-450, 456.
MI91-2 (Feb. 22, 1991)..... p. 461, pp. 464-476b.
MI91-4 (Feb. 22, 1991)..... p. 491, pp. 495, 497-498.
MI91-5 (Feb. 22, 1991)..... p. 499, pp. 500-512.
MI91-7 (Feb. 22, 1991)..... p. 515, pp. 516-534d.
MI91-12 (Feb. 22, 1991)..... p. 543, pp. 544-550.
Nebraska:
NE91-2 (Feb. 22, 1991)..... p. 749, p. 751.

Volume III

California:
CA91-1 (Feb. 22, 1991)..... p. 31, pp. 32-36.
CA91-2 (Feb. 22, 1991)..... p. 45, pp. 46-70d.
CA91-4 (Feb. 22, 1991)..... p. 75, pp. 76-112f.
Idaho:
ID91-1 (Feb. 22, 1991)..... p. 207, pp. 208-210.
ID91-4 (Feb. 22, 1991)..... p. 225, p.226.
Oregon:
OR91-1 (Feb. 22, 1991)..... p. 371, pp. 372-374.
Washington:
WA91-1 (Feb. 22, 1991)..... p. 451, pp. 452-453, 455, p. 461.
WA91-2 (Feb. 22, 1991)..... p. 477, pp. 478, 480.
WA91-3 (Feb. 22, 1991)..... p. 487, pp. 488-490.
WA91-5 (Feb. 22, 1991)..... p. 495, p. 496.
WA91-7 (Feb. 22, 1991)..... p. 501, pp. 502-503.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 25th day of October 1991.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 91-26105 Filed 10-31-91; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

Connecticut State Standards; Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4), will review and approve standards promulgated pursuant to a state Plan, which has been approved in accordance with Section 18(c) of the Act and 29 CFR part 1902. On November 3, 1978, notice was published in the **Federal Register** (43 FR 51390) of the approval of the Connecticut Public Sector State Plan and the adoption of Subpart E to part 1956 containing the decision.

The Connecticut Public Sector only State Plan provides for the adoption of Federal standards as State standards after:

a. Publishing an intent to amend the State Plan by adopting the standard(s) in the Connecticut Law Journal.

b. Approval by the Commissioner of Labor and the Attorney General of the State of Connecticut.

c. Approval by the Legislative Regulation Review Committee, State of Connecticut.

d. Filing in the Office of the Secretary of State, State of Connecticut.

e. Publishing a notice that the State Plan is amended by adopting the standard(s) in the Connecticut Law Journal.

The Connecticut Public Sector State Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6, of the Act. By letter dated August 26, 1991, from Commissioner Ronald F. Petronella, Connecticut Department of Labor, to John B. Miles, Jr., Regional Administrator, and incorporated as part of the plan, the State submitted updated State standards identical to 29 CFR parts 1910 and 1926 and subsequent amendments thereto, as described below:

(1) Correction to 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response; Final Rule: (55 FR 14073, dated 4/13/90).

(2) Revision to 29 CFR 1910.252, Subpart Q-Welding, Cutting and Brazing; Final Rule; General Requirements, (55 FR 13696, dated 4/11/90).

(3) Revision to 29 CFR 1910.253, Subpart Q-Welding, Cutting and Brazing; Final Rule; Oxygen-fuel Gas Welding and Cutting, (55 FR 13701, dated 4/11/90).

(4) Revision to 29 CFR 1910.254, Subpart Q-Welding, Cutting and Brazing; Final Rule; Arc Welding and Cutting, (55 FR 13709, dated 4/11/90).

(5) Revision to 29 CFR 1910.255, Subpart Q-Welding, Cutting and Brazing; Final Rule; Resistance Welding, (55 FR 13710, dated 4/11/90).

(6) Revision to 29 CFR 1910.256, Subpart Q-Welding, Cutting and Brazing; Final Rule; Sources of Standards, (55 FR 13711, dated 4/11/90).

(7) Revision to 29 CFR 1910.257, Subpart Q-Welding, Cutting and Brazing; Final Rule; Standards Organization, (55 FR 13711, dated 4/11/90).

(8) Amendment and Revision to 29 CFR 1910.1001, Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite, (55 FR 3731, dated 2/5/90.

(9) Revision to 29 CFR 1910.1025, Occupational Exposure to Lead; Final Rule; (55 FR 3166, dated 1/30/90).

(10) Addition to 29 CFR 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories; Final Rule; (55 FR 3317, dated 1/31/90).

(11) Amendment to 29 CFR 1926.58, Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite (55 FR 3732, dated 2/5/90).

These standards, contained in the Regulations of Connecticut State Agencies became effective September 21, 1990 and December 31, 1990, pursuant to Section 31-372 of Connecticut State Law.

Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards, and are accordingly approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 133 Portland Street, Boston, Massachusetts, 02114; Office of the Commissioner, State of Connecticut, Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, and the Office of State Programs, room N3476, 200 Constitution Avenue NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Connecticut Public Sector Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

This decision is effective November 1, 1991.

Authority: Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Boston, Massachusetts, this 30th day of September, 1991.

John B. Miles, Jr.,

Regional Administrator.

[FR Doc. 91–26386 Filed 10–31–91; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefits Administration

[Application Nos. T–7492, D–7568, D–7679]

Proposed Individual Exemption and Proposed Revocation of PTE 87–51, Wells Fargo Bank, N.A.

AGENCY: Pension and Welfare Benefits Administration.

ACTION: Proposed individual exemption and proposed revocation of existing individual exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption, a proposed revocation of an existing individual exemption, and the withdrawal from consideration of a proposed exemption. If adopted, the proposed individual exemption would replace Prohibited Transaction Exemption (PTE) 87–51, which permits Wells Fargo Bank, N.A., as sponsor and trustee of various index-based collective investment funds, to engage in the cross-trading of securities held by such funds without violating section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act). The proposed exemption would provide conditional relief that differs, in scope and conditions, from that provided by PTE 87–51.

DATES: Written comments and requests for a public hearing should be received by the Department before December 16, 1991. The replacement exemption would be effective 30 days following publication of the final grant notice in the **Federal Register**, except as otherwise noted below.

ADDRESSES: All written comments and requests for a hearing (preferably 3 copies) should be sent to: Office of Exemption Determinations, Pension and Welfare Benefits Administration, room N–5649, 200 Constitution Avenue NW., Washington, DC 20210, Attn: Application No. D–7679. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5507, 200 Constitution Avenue NW., Washington, DC 20210.

NOTICE TO INTERESTED PERSONS: A notice will be mailed by first class mail to each plan which invests in the funds which are the subject of this proposed exemption. The notice will contain a copy of the notice of pendency of exemption as published in the **Federal Register** and an explanation of the rights of interested parties to comment on or request a hearing regarding the proposed exemption. Such notice will be sent to the above-named parties within two weeks of the publication of the notice of pendency of exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: David Lurie of the Department, telephone (202) 523–7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption that would replace PTE 87–51 (52 FR 22558, June 12, 1987), an exemption from the restrictions of section 406(b)(2) of the Act. Notice is also hereby given of the pendency before the Department of a proposed revocation of PTE 87–51. Finally, the Department also intends to withdraw from consideration a proposed exemption (54 FR 18051, April 26, 1989) from the restrictions of section 8477(c)(2) of the Federal Employees' Retirement System Act of 1986 (FERSA). In part, this proposal is the Department's response to applications filed by Wells Fargo Bank, N.A. (Wells Fargo). In addition, the document contains proposals that the Department is making on its own motion.

PTE 87–51 provides exemptive relief from the restrictions of section 406(b)(2) of the Act for the purchase and sale of stocks among Index Funds and Model-Driven Funds sponsored by Wells Fargo and certain large pension plans (Large Plans) for which Wells Fargo provides trustee and/or investment advisory services. In the application for that exemption, Wells Fargo limited the definition of Index Funds to those based on the Standard & Poor's 500 Composite Stock Price Index (the S&P 500) and the Wilshire 5000 Index (the Wilshire 5000). The Model-Driven Funds included only Funds which were Model-Driven transformations of the S&P 500. Since PTE 87–51 was granted, Wells Fargo has introduced new Index and Model-Driven Funds based on a number of other independent third-party stock indices. Wells Fargo has requested that the relief granted in PTE 87–51 be extended to include these additional Index and Model-Driven Funds, as well as such funds as may be initiated in the future based on indices not currently used by Wells Fargo or on newly created indices. Wells Fargo has also requested that the definition of Index and Model-Driven Funds be clarified to indicate that individual portfolios of large independent entities (including benefit plans) which are managed by Wells Fargo under an Index or Model-Driven Fund strategy are included in the definition of such Fund.

If granted, this proposed exemption will supersede PTE 87–51 30 days following the publication of such grant.

For a more complete discussion of the manner in which investments and withdrawals are made in the Index and Model-Driven Funds, the circumstances under which such Funds engage in the purchase and sale of stocks, the situations in which opportunities for cross-trading arise and, the manner in which cross-trades are accomplished, including those involving Large Plans, see the notice of proposed exemption for PTE 87–51 (52 FR 11774, April 10, 1987). Any changes in the operation of the Funds since the grant of PTE 87–51 are discussed below in the Summary of Facts and Representations.

The April 26, 1989 proposed exemption, relating to application number T–7492, would have provided exemptive relief from the restrictions of section 8477(c)(2) of FERSA for the purchase and sale of stocks between the Equity Index Fund (an S&P 500 based Index Fund) sponsored by Wells Fargo and other investment funds advised and/or managed by Wells Fargo or its affiliates, and for the acquisition, holding and disposition of Wells Fargo & Co. stock by the Equity Index Fund. For purposes of consistency, the Department has determined to withdraw the proposed exemption and to publish a single proposed exemption which provides relief from the prohibited transaction provisions of the Act, the Internal Revenue Code of 1986 (the Code) and FERSA.

Summary of Facts and Representations

(1) Wells Fargo & Co. (WFC) is a bank holding company regulated by and registered under the Bank Holding Company Act of 1956, as amended. Wells Fargo is a wholly-owned subsidiary of WFC and its principal asset. On April 3, 1990, WFC entered into a joint venture agreement with the Nikko Securities Co., Ltd. which resulted in the creation of Wells Fargo Nikko Investment Advisors (WFNIA) and Wells Fargo Institutional Trust Company (WFITC). WFNIA is registered under the Investment Advisors Act of 1940 and WFITC is a nationally-chartered trust company. Substantially all of the fiduciary account management responsibilities of the Advisors Trust Division of Wells Fargo have been transferred to WFITC. WFNIA has been retained to provide investment advisory services to WFITC. WFNIA is 50 percent owned by Wells Fargo Investment Advisors (WFIA), a wholly-owned subsidiary of WFC, and WFITC is owned 99.9 percent by WFNIA and .1 percent by WFC. All references to Wells Fargo herein are deemed to include WFITC, WFIA and WFNIA, except as noted.

(2) Wells Fargo was appointed as a manager with respect to the Thrift Savings Plan (the Plan) established pursuant to the provisions of FERSA on December 21, 1987. Plan funds were first invested in the Equity Index Fund on February 5, 1988. Wells Fargo also provides investment advisory and trustee services to many qualified pension and profit sharing plans, governmental pension plans, and other institutional accounts and individuals.

(3) Section 8438(b) of FERSA requires that the Federal Retirement Thrift Investment Board (the Board) establish a Common Stock Index Investment Fund (the C Fund) to be invested in a portfolio designed to replicate the performance of an index which is a commonly recognized index comprised of common stocks, the aggregate market value of which is a reasonably complete representation of the United States equity markets. The agreement between Wells Fargo and the Board provides that the C Fund shall be invested with the objective of replicating the S&P 500. Pursuant to this agreement, Wells Fargo currently invests the assets of the C Fund in its Equity Index Fund which also has the investment objective of replicating the return of the S&P 500. The Bank does not charge the Plan any additional fees for investing in the Equity Index Fund. The Bank's compensation is derived solely from management fees which it receives from the Plan and which are no more than the fees that would be charged for individual management of a "stand-alone portfolio".

Cross Trades

(4) In PTE 87–51, the applicant represented that opportunities for cross-trades among Index and Model-Driven Funds arise when one Fund must purchase and another Fund must sell certain stock(s) in order to maintain conformance with the underlying index or model, whether because of changes in such underlying index or model and/or because of changes in the overall investment level in the Funds. In such circumstances, the Funds can save substantial transaction expenses and avoid adverse market impacts by engaging in direct cross-trades rather than buying or selling the stocks on the open market. As noted in the preamble to the proposal for PTE 87–51, the applicant had limited the definition of Index Funds to those based on the S&P 500 and the Wilshire 5000, and that of Model-Driven Funds to those based on a transformation of the S&P 500. The Department also notes that PTE 87–51 did not contemplate cross-trade transactions involving WFC stock, which was added to the S&P 500 on April 29, 1987.

The applicant represents that over the last several years, a number of independent third party stock indices have been created. Each index operates on different assumptions as to the particular measure of market performance. Wells Fargo has responded to this trend by introducing new Index and Model-Driven Funds which utilize some of these indices. All of these Funds are operated in essentially the same manner as those described in PTE 87–51, the only difference being the respective index or model utilized.

(5) The applicant represents that cross-trades have been and will be made within three business days of the "triggering event" giving rise to the cross-trade opportunity. A "triggering event" is limited to a change in the composition or weighting of the index and/or model underlying a Fund, a change in the overall investments in a Fund as a result of a net investment or withdrawal on the Fund's regularly scheduled opening date, or a declaration by Wells Fargo that a "triggering event" has occurred (to be recorded on Wells Fargo's records) upon an accumulation in a Fund of cash attributable to dividends on, and/or tender offers for, portfolio securities equal to not less than .05 percent and not more than .5 percent of the value of the Fund.

In PTE 87–51, the applicant represented that Wells Fargo excluded from the Funds stocks of companies that had or appeared likely to file for protection under bankruptcy laws. The applicant represents that this "financial screen" has been eliminated in order to track more accurately the investment performance of the underlying index.

(6) The applicant also represented in PTE 87–51 that independent brokers would be utilized to process cross-trade transactions. The commission in such transactions is 1 cent per share, which reflects the broker's record-keeping costs. The applicant now represents that it has developed the capability of providing such record-keeping and desires to provide those services itself. In transactions in which Wells Fargo provides record-keeping services, there will be no commission charged to the Fund(s) and/or Large Plan(s) engaged in the cross-trade. If it is necessary to utilize a broker to provide record-keeping services, the applicant further represents that such broker will be independent of Wells Fargo and its affiliates.

(7) Under PTE 87–51, the transaction price for exempt cross-trades is based on the closing price for the affected stocks on the day of trading on a national exchange or NASDAQ. The applicant proposes that this procedure be changed under certain limited circumstances. When a particular stock is added to or deleted from an independent third party index, the third party index sponsor may announce such change after the market has closed for the day. The applicant represents that corresponding changes in an indexed portfolio should be made as soon as possible the morning of the next business day following such an

announcement to avoid to the greatest extent any investment performance tracking errors attributable to delayed purchases or sales. Therefore, for these types of transactions only, Wells Fargo proposes to set the transaction price at the opening price on the next business day following the announcement, thereby using a transaction price which is more representative of the probable price of a market trade at that time.

Acquisition, Holding and Disposition of WFC Stock

(8) On April 22, 1987, the stock of WFC was added to the S&P 500 by Standard & Poor's. The applicant represents that the exclusion of WFC stock from those Index and Model-Driven Funds based on the S&P 500 has caused a substantial tracking error between those Funds and the S&P 500. Due to the large number of shares required, Wells Fargo proposes to purchase, on the open market, and hold, on behalf of the S&P 500-based Funds, the number of shares of WFC stock necessary to replicate correctly the weighting of WFC stock in the S&P 500. The applicant represents that such purchases will be subject to Rule 10b–18 of the Securities and Exchange Commission (SEC). Rule 10b–18 is a "safe harbor" for issuers of securities from section 9(a)(2) of the Securities Exchange Act of 1934 and SEC Rule 10b–5, which generally prohibit persons from manipulating the price of a security and engaging in fraud in connection with the purchase or sale of a security. The conditions that would be imposed by Rule 10b–18 for the proposed purchase of WFC stock, a reported security traded primarily on the New York Stock Exchange (NYSE), are that:

(a) All purchases are made from or through only one broker on any single day;

(b) No purchases may constitute the opening transaction in WFC stock;

(c) Purchases may not occur during the one-half hour before the scheduled close of trading on the NYSE;

(d) The price may not be higher than the current independent bid quotation or the last independent sale price on the exchange, whichever is higher;

(e) If the purchases of WFC stock are not block purchases as defined by Rule 10b–18(b)(4), the total amount of purchases on any one day does not exceed the higher of one round lot or the number of round lots closest to 25 percent of the trading volume for the WFC stock on that day.

Any purchases or sales of WFC stock by an S&P 500-based Fund after the initial acquisition of such stock would be accomplished either through cross-trade transactions subject to the conditions of parts I and III of the proposal or on the open market, subject to SEC Rule 10b–18 and the conditions of parts II and III.

(9) Wells Fargo has appointed the Plexus Group (Plexus) to act as an independent fiduciary for the purposes of developing trading procedures for the initial acquisition of WFC stock on the open market by the S&P 500-based Funds in the amounts required by the S&P 500 while minimizing the impact of such acquisitions on the market for WFC stock, and monitoring Wells Fargo's compliance with those procedures. Plexus, registered as an investment adviser under the Investment Advisers Act of 1940, specializes in advising investors in ways to reduce the costs of securities trading in addition to providing investment management services. The principals of Plexus are experienced in developing and operating investment strategies, including index funds. The applicant represents that Plexus and its principals are totally unrelated to, and independent from, Wells Fargo and its affiliates. Plexus further represents that neither it, its principals, employees or any affiliates holds or controls any shares of WFC and that during the exercise of the trading program by Wells Fargo no principal employee of Plexus nor Plexus itself will engage in any trading of any kind in WFC stock. Furthermore, Plexus will not act as the broker for any purchases or sales of WFC stock and will not receive any commissions as a result of the trading program.

(10) Plexus had as its primary goal the development of a trading program that minimizes the market impact of purchases made pursuant to the program. This serves to minimize price increases which would be detrimental to the interests of plan investors. In order to achieve that goal, Plexus determined that the trading activities should be conducted in a low-profile, mechanical, non-discretionary manner. In this regard, Plexus utilized a computerized trading program that will engage in a number of small purchases over the course of each day, randomly timed. Plexus has opined that the use of the computer trading program, in accordance with the procedures it has developed, will allow Wells Fargo to acquire the necessary shares of WFC stock for the Funds with minimum market perturbation and in a manner that will be in the best interests of the plans participating in the Funds.

(11) Plexus will also monitor Wells Fargo's compliance with the trading program and procedures it developed for the initial acquisition of WFC stock. Plexus will receive duplicate confirmation slips of all trades as well as "time and tape" of all NYSE transactions in WFC stock completed immediately before and after each transaction and a time/price/quantity record of all completed or attempted trades. Plexus will review the activities weekly to determine compliance with the trading procedures and notify Wells Fargo and the Department should any non-compliance be detected. Should the trading strategy need modifications due to unforeseen events or consequences, Plexus will consult with Wells Fargo and must approve in advance any alteration of the trading procedures. All purchases of WFC stock pursuant to the Plexus trading program will comply with SEC Rule 10b–18 and parts II and III of the proposed exemption.

(12) The applicant represents that it does not exercise any discretionary authority over which Index or Model-Driven Funds an employee benefit plan invests in, except for a relatively small number of plans which subscribe to Portfolio Management in Funds services (PMF). If Wells Fargo provides PMF to a plan, Wells Fargo does exercise discretion in allocating and reallocating plan assets among various collective investment funds, including Index and Model-Driven Funds, based on the plan's investment objectives, risk profile and market conditions.[1] However, Wells Fargo will take the following steps with respect to plans utilizing PMF (PMF Plans):

(a) Before WFC stock is purchased by the Index Funds, the appropriate independent fiduciary for each PMF Plan will be furnished an explanation and a simple form to return on which approval or disapproval of investments in Index and Model-Driven Funds holding WFC stock could be indicated, together with a postage-paid return envelope. If no response is received by Wells Fargo within 30 days, such response may be obtained by telephone contact. If the fiduciary's response is obtained by telephone contact, Wells Fargo will confirm the fiduciary's decision in writing within five business

[1] The applicant represents that any prohibited transactions which might occur as a result of such discretionary allocation and reallocation are exempt from the prohibitions of section 406 of the Act by reason of section 408(b)(8). In the absence of regulations, the Department is not prepared at this time to indicate whether section 408(b)(8) applies to transactions described in section 406(b) of ERISA. Accordingly, the Department expresses no opinion whether such allocations comply with the requirements of section 408(b)(8) of the Act and is not proposing any exemptive relief beyond that offered by section 408(b)(8).

days. In the event that no response is obtained from a PMF Plan fiduciary, the assets of such Plan may not be invested in any Fund which invests in WFC stock.

(b) Each new management agreement with a PMF Plan will contain language specifically approving or disapproving the discretionary investment in Index and Model-Driven Funds that might hold WFC stock. The fiduciary for each present PMF Plan would also be informed that an existing management agreement could be modified in the same way.

(c) Each PMF Plan will be informed on a quarterly basis of any investment in or withdrawal from an Index Fund holding WFC stock. The PMF Plan would be granted the election to override Wells Fargo's discretionary decision to invest in or withdraw from such Fund without penalty.

(13) The applicant represents that in the event that a third-party index, in addition to the S&P 500, which Wells Fargo uses as the basis for an Index or Model-Driven Fund adds WFC stock, or if Wells Fargo establishes a Fund based on a third-party index other than the S&P 500 which includes WFC stock, and Wells Fargo is unable to satisfy the need of such Fund for WFC stock initially through cross-trades with other Funds, Wells Fargo will acquire WFC stock in the open market. If Wells Fargo is required to acquire WFC stock in the open market on behalf of an Index or Model-Driven Fund in those circumstances, Wells Fargo will determine whether the stock can be acquired within 10 business days, acquiring on each day no more than the greater of 10 percent of the stock's average daily trading volume for the previous five days or 10 percent of the stock's current day's trading volume. If the WFC stock cannot be acquired within 10 business days, or if Wells Fargo otherwise determines that the interests of the plans investing in the Index or Model-Driven Fund would be better served by acquiring the needed WFC stock in the open market over a period in excess of 10 business days, Wells Fargo will appoint an independent fiduciary to establish the procedures to be used to acquire the WFC stock and monitor Wells Fargo's compliance with those procedures. The independent fiduciary may be other than Plexus and its procedures may differ from those of Plexus. However, such fiduciary will be unrelated to and independent of Wells Fargo and will have expertise in the operation of index funds. The applicant further represents that any such acquisition of WFC stock on behalf of an Index or Model-Driven Fund will comply with the applicable conditions of Parts II and III of the proposed exemption, including compliance with SEC Rule 10b–18.

(14) Wells Fargo has appointed Institutional Shareholder Services, Inc. (ISS) to act as the independent fiduciary which will direct the voting of the WFC stock held by the Index and/or Model-Driven Funds. ISS is a consulting firm specializing in corporate governance issues and proxy voting on behalf of public and private pension funds, banks, trust companies, money managers, insurance companies and other institutional investors with large equity portfolios. ISS has developed, and will supply to Wells Fargo, a Corporate Ownership Manual which is a guideline to the voting of proxies by institutional fiduciaries, and their current voting guidelines. ISS will be provided with all necessary information regarding the Funds which hold WFC stock, the amount of WFC stock held by such Funds on the record date for shareholder meetings of WFC, and all proxy and consent materials with respect to WFC stock. ISS will maintain records with respect to its activities as an independent fiduciary on behalf of the Funds, including the number of shares of WFC stock voted, the manner in which they were voted, and the rationale for the vote if such vote was not consistent with the ISS Corporate Ownership Manual and their current voting guidelines in effect at the time of the vote. ISS will also supply Wells Fargo with such information after each shareholder meeting. ISS has acknowledged that it will be acting as a fiduciary with respect to the plans which invest in Funds which own WFC stock in voting such stock.

(15) In summary, the applicant represents that the proposed exemptions satisfy the statutory criteria of section 408(a) of the Act and section 8477(c)(3) of FERSA because, with respect to cross-trading: (a) The Index and Model-Driven Funds buy or sell stocks only in response to various "triggers" which are not within Wells Fargo's control; (b) the Large Plans will engage in cross-trades only in situations where Wells Fargo has no discretion with respect to the investment decision; (c) all cross-trades (including cross-trades involving WFC stock) will occur within 3 business days of the "triggering event" necessitating the purchase or sale; (d) the price for the stocks will be set at the closing (or opening, where appropriate) price for those stocks on the day of trading; (e) the Funds and Large Plans will save significant amounts of money on brokerage commissions; (f) Wells Fargo will receive no additional compensation as a result of the proposed cross-trades; and with respect to the acquisition, holding and disposition of WFC stock: (a) such acquisition, holding and disposition of WFC stock will be done solely to maintain strict quantitative conformance of an Index or Model-Driven Fund with its underlying index or model; (b) all acquisitions and dispositions of WFC stock on the open market will comply with SEC Rule 10b–18; (c) no more than five percent of the total outstanding shares of WFC stock will be held in the aggregate by the Funds; (d) the initial acquisition of WFC stock on behalf of the Equity Index Fund has been designed and will be monitored by a fiduciary independent of Wells Fargo to result in minimum market disturbances; and (e) a fiduciary independent of Wells Fargo will direct the voting of any WFC stock held by the Funds.

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act, section 4975(c)(2) of the Code and section 8477(c)(3) of the Federal Employees' Retirement System Act of 1986 (FERSA) and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975 as amended December 29, 1988, to apply also to FERSA).

Part I—Exemption for Cross-Trading Between Certain Funds

Effective February 5, 1988, the restrictions of sections 406(b)(2) of the Act and 8477(c)(2)(B) of the Federal Employees' Retirement System Act (FERSA) shall not apply to (1) the purchase and sale of stocks (including the common stock of Wells Fargo & Co. (WFC)) between Index Funds and/or Model-Driven Funds (collectively, Funds); and (2) the purchase and sale of stocks (including the common stock of WFC) between Index or Model-Driven Funds and various large pension plans (the Large Plans) pursuant to portfolio restructuring programs of the Large Plans if the following conditions and the General Conditions of Part III are met:

(a) The Index or Model-Driven Fund is based on an index which represents the investment performance of a specific segment of the public market for equity securities in the United States and/or foreign countries. The organization creating and maintaining the index must be (1) engaged in the business of providing financial information, evaluations, advice or securities

brokerage services to institutional clients, (2) a publisher of financial news or information, or (3) a public stock exchange or association of securities dealers. The index must be created and maintained by an organization independent of Wells Fargo and its affiliates. The index must be a generally accepted standardized index of securities which is not specifically tailored for the use of Wells Fargo or its affiliates.

(b) The price for the stock is set at the closing price for that stock on the day of trading; unless the stock was added to or deleted from an index underlying a Fund or Fund(s) after the close of trading, in which case the price will be the opening price for that stock on the next business day after the announcement of the addition or deletion.

(c) The transaction takes place within three business days of the "triggering event" giving rise to the cross-trade opportunity. A "triggering event" is defined as:

(1) A change in the composition or weighting of the index and/or model underlying a Fund;

(2) A change in the overall level of investment in a Fund as a result of investments and withdrawals made on the Fund's regularly scheduled "opening date"; or

(3) A declaration by Wells Fargo (recorded on Wells Fargo's records) that a "triggering event" has occurred which will be made upon an accumulation of cash in a Fund attributable to dividends on and/or tender offers for portfolio securities equal to not less than .05 percent and not more than .5 percent of the Fund's total value;

(d) With respect to transactions involving a Large Plan:

(1) It has assets in excess of $50 million;

(2) Fiduciaries of the Large Plan who are independent of Wells Fargo are, prior to any cross-trade transactions, fully informed of the cross-trade technique and provide advance written approval of such transactions. Within 45 days of the completion of the Large Plan's portfolio restructuring program such fiduciaries shall be fully apprised in writing of the transaction results. However, if such program takes longer than three months to complete, interim reports of the transaction results will be made within 30 days of the end of each three month period;

(3) Such Large Plan transactions occur only in situations where Wells Fargo has been authorized to restructure all or a portion of the Large Plan's portfolio into an Index or Model-Driven Fund (including a separate account based on an index or computer model) or to act as a "trading adviser" in carrying out a Large Plan-initiated liquidation or restructuring of its equity portfolio; and

(e) Wells Fargo receives no additional direct or indirect compensation as a result of the cross-trade transaction.

Part II—Exemption for the Acquisition, Holding and Disposition of Wells Fargo & Company Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and 406(b)(2) of the Act, and section 8477(c)(2) (A) and (B) of FERSA and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (D) and (E) of the Code, shall not apply to the proposed acquisition, holding and disposition of the common stock of WFC by Index and Model-Driven Funds, if the following conditions and the General Conditions of part III are met:

(a) The acquisition or disposition of the WFC stock is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based;

(b) All acquisitions and dispositions, other than through cross-trade transactions meeting the conditions of part I, will comply with Rule 10b–18 of the Securities and Exchange Commission including the limitations regarding the price paid or received for such stock;

(c) Aggregate daily purchases of WFC stock, other than cross-trade purchases meeting the conditions of part I, will constitute no more than the greater of: (1) 10 percent of the stock's average daily trading volume for the previous five days; or (2) 10 percent of the stock's trading volume on the date of the transaction;

(d) If the necessary number of shares of WFC stock cannot be acquired within 10 business days from the date of the event which causes the particular Index or Model-Driven Fund(s) to require WFC stock, Wells Fargo will appoint a fiduciary which is independent of Wells Fargo and its affiliates to design acquisition procedures and monitor Wells Fargo's compliance with such procedures;

(e) All purchases and sales of WFC stock, other than cross-trades meeting the conditions of Part I, will be executed on the national exchange on which WFC stock is primarily traded;

(f) No transactions will involve purchases from or sales to Wells Fargo, or any affiliate, officer, director, or employee of Wells Fargo or any party in interest with respect to a plan which has invested in the Index or Model-Driven Fund;

(g) No more than five (5) percent of the total amount of WFC stock issued and outstanding at any time shall be held in the aggregate by Index and Model-Driven Funds managed by Wells Fargo;

(h) WFC stock shall constitute no more than two (2) percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based;

(i) A plan fiduciary independent of Wells Fargo authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds WFC stock; and

(j) A fiduciary independent of Wells Fargo and its affiliates will direct the voting of the WFC stock held by an Index or Model-Driven Fund on any matter in which shareholders of WFC are required or permitted to vote.

Part III—General Conditions

(a) Wells Fargo maintains or causes to be maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (b) of this Part to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Wells Fargo or its affiliates, the records are lost or destroyed prior to the end of the six-year period.

(b)(1) Except as provided in paragraph (2) of this subsection (b) and notwithstanding any provisions of subsection (a) (2) and (b) of section 504 of the Act, the records referred to in subsection (a) of this Part are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in an Index or Model-Driven Fund who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an Index or Model-Driven Fund or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an Index or Model-Driven Fund, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this subsection (b) shall be authorized to

examine trade secrets of Wells Fargo, any of its affiliates, or commercial or financial information which is privileged or confidential.

Part IV—Definitions

(1) Index Fund—Any investment fund, account or portfolio sponsored, maintained and/or trusteed by Wells Fargo or an affiliate in which one or more investors invest which are designed to replicate the capitalization-weighted composition of a stock index which satisfies the conditions of Part I(a) and Part II(h).

(2) Model-Driven Fund—Any investment fund, account or portfolio sponsored, maintained and/or trusteed by Wells Fargo or an affiliate in which one or more investors invest which are based on computer models using prescribed objective criteria to transform an independent third-party stock index which satisfies the conditions of part I(a) and part II(h).

(3) Opening date—The regularly-scheduled date on which investments in or withdrawals from an Index or Model-Driven Fund may be made.

(4) Trading adviser—A person whose role is limited to arranging a Large Plan-initiated liquidation or equity restructuring within a stated time so as to minimize transaction costs.

Effective Date

If this exemption is granted, the effective date with respect to part I will be February 5, 1988.

Proposed Revocation of Existing Exemption

On the basis of the material referred to in this document, the Department is considering revoking PTE 87–51, effective 30 days after final notice of the revocation is published in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 29th day of October, 1991.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 91–26444 Filed 10–31–91; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

Procedures for Providing Security Support For NRC Public Meetings/ Hearings

The Nuclear Regulatory Commission is revising its procedures for providing security support for all public NRC forums. This revision will provide a single set of procedures which will serve to ensure consistency and uniformity of application. These procedures will be used by NRC Headquarters and regional staff and are applicable to public hearings/meetings held at NRC Headquarters buildings, other NRC space in the Washington, DC area and/or regional locations, to include space leased for the occasion.

In order to balance the orderly conduct of government business with the right of free speech, the following procedures regarding attendance at NRC public meetings and hearings have been established:

- Visitors (other than properly identified Congressional, press and government personnel) may be subject to personnel screening such as passing through metal detectors and visitors' briefcases, packages, etc., may be subject to inspection.
- Signs, banners, posters, etc., not larger than 18" square will be permitted, but cannot be waved, held over one's head or generally moved about while in the meeting room. Signs, banners or posters larger than 18" square will not be permitted in the meeting room because they are disruptive both to the participants and to the audience. Additionally, signs, banners, posters, etc., affixed to any sticks, poles or other similar devices will not be permitted in the meeting room.
- The presiding official will note any disruptive behavior on the record and warn the person to cease such behavior. If the person does not cease the behavior, the presiding official will call a brief recess to restore order or ask one of the security personnel on hand to remove the person.

FOR FURTHER INFORMATION CONTACT: David A. Dittmeier, Chief, Facilities Security and Operational Support Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–4124.

Dated at Rockville, Maryland, this 23rd day of October 1991.

For the Nuclear Commission.

Raymond J. Brady,

Director, Division of Security, Office of Administration.

[FR Doc. 91–26422 Filed 10–31–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corporation; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–16, issued to GPU Nuclear Corporation (GPUN, the licensee), for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The proposed amendment would extend the duration of the Oyster Creek Nuclear Generating Station Operating

License DPR–16 to forty (40) years from the date of the full power license.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 2, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753. 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 for the with particularity the interest of the petitioner in the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or contraverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: 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 Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, 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 presiding 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).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated October 4, 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 the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 0875[illegible]

Dated at Rockville, Maryland, this 25th day of October, 1991.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–26421 Filed 10–31–91; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–29855; File No. SR-Amex-91–27]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Options on the S&P MidCap 400 Index

October 24, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby

given that on October 10, 1991, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to trade options on the S&P Midcap 400 Index ("MidCap" or "Index") developed by the Standard and Poor's Corporation ("S&P"). In addition, the following rule changes are proposed.

Italics indicate material proposed to be added; [brackets] indicate material proposed to be deleted.

Rule 904C Position Limits

(a) No Change

(b) Broad Stock Index Groups—The Exchange shall establish (and may change from time to time) position limits for the following broad stock index groups:

—Major Market Index Options—34,000 contracts on the same side of the market with no more than 20,000 of such contracts in series with the nearest expiration month;

—LT–20 Index Options—340,000 contracts on the same side of the market with no more than 200,000 of such contracts in series with the nearest expiration month;

—Institutional Index Options—25,000 contracts on the same side of the market with no more than 15,000 of such contracts in series with the nearest expiration month; and

—Japan Index Options—25,000 contracts on the same side of the market with no more than 15,000 of such contracts in series with the nearest expiration.

—MidCap Index Options—25,000 contracts on the same side of the market with no more than 15,000 of such contracts in series with the nearest expiration.

Rule 902C Rights and Obligations of Holders and Writers of Stock Index Option Contracts

(a)—(b) No Change

(c) Standard & Poor's Corporation ("S&P") does not guarantee the accuracy and/or completeness of the S&P MidCap 400 Index or any data included therein. S&P makes no warranty, express or implied, as to the results to be obtained by any person or any entity from the use of the S&P MidCap 400 Index or any data included therein. S&P makes no express or implied warranties, and expressly disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to the S&P MidCap 400 Index or any data included therein. Without limiting any of the foregoing, in no event shall S&P have any liability for any special, punitive, indirect, or consequential damages (including lost profits), even if notified of the possibility of such damages. In addition, S&P shall have no liability for any damages, claims, losses or expenses caused by any errors or delays in calculating or disseminating the S&P MidCap 400 Index.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the propose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange is proposing to trade options on the MidCap. Developed by S&P, the MidCap is a market-weighted (stock price times shares outstanding) index composed of 400 domestic stocks with a median market capitalization of approximately $680 million and a total market value of about $75 billion. The MidCap is designed to track the performance of midsized companies and thus provides a unique opportunity for investors interested in tracking the growth of mid–size companies within the U.S.

The MidCap, which was first disseminated on June 19, 1991, is comprised of stocks in the following four broad-market sectors: Industrials (66.15%), Utilities (17.65%), Financial (15.1%) and Transportation (1.2%). Currently, 246 companies in the Index are listed on the New York Stock Exchange ("NYSE"), 141 on the National Association of Securities Dealers Automated Quotation System ("NASDAQ"), and 13 on the Amex. A list of the 400 stocks which have been selected for the MidCap, as of September 11, 1991, is available at the Commission. The Index is calculated continuously throughout the trading day and S&P provides the level of the MidCap through its own delivery services, wire services, major quote vendors and the financial media.

Options on the S&P MidCap 400 Index will provide institutional and retail investors with the opportunity to take a position on a broad mid-range market, and to benefit from price movements in the Index. To date, institutional investors have indexed more than $2 billion in assets to the MidCap. The proposed options on the MidCap will be in all respects identical to other standard index options issued by the Options Clearing Corporation. As such, the proposed Index options will be cash settled and European-styled (exercisable only at expiration).

Amex Rules 900C through 980C will apply to option contracts based on the MidCap. As a Broad Stock Index Group, the Index will trade from 9:30 a.m. to 4:15 p.m. New York time each business day. The Exchange intends to list put and call options having up to four consecutive near-term expiration months plus five additional longer-term option series with consecutive June and December expirations extending into successive years in accordance with Amex Rule 903C. However, the Exchange reserves the right to change this patter of expiration months depending upon expirations available, if any, on a futures contract which may trade on this Index.

Further, in accordance with current policy, the Exchange plans to introduce strike price intervals for option series up to one year at 5 point intervals and for longer-term options, as wide as twenty-five or fifty point intervals. Position limits for MidCap options will be set at no more than 25,000 contracts on the same side of the market, provided no more than 15,000 of such contracts are in series in the nearest expiration month. In all other respects, policies and rules applicable to this option will be the same as current rules applicable to all index options which trade on the Exchange.

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and

perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-Amex-91-27 and should be submitted by November 22, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-26372 Filed 10-31-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29860; File No. SR-CBOE-91-28]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Extension by Five Minutes of the Cutoff Time for Submitting "Exercise Advice" Forms for Index Options to the Exchange

October 25, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change which would extend by five minutes the cutoff time for submitting "Exercise Advice" forms for index options to the Exchange. The proposal was published for comment in the **Federal Register.**[1] the Commission did not receive any comments relating to the proposal.

The Exchange proposes to amend Exchange rule 11.1, Interpretations and Policies .03 by changing the time that an exercise advice form for index options must be submitted to the Exchange. The current cutoff time coincides with the close of trading in index options, generally 3:15 p.m. Central Time ("CT").[2] The Exchange intends to extend the cutoff time to five minutes after the close of trading in index options, generally establishing a 3:20 p.m. CT cutoff time. In addition, the Exchange similarly intends to extend the cutoff time for the submission of an exercise cancel form to five minutes after the close of trading in index options, generally establishing a 3:20 p.m. (CT) cutoff time.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). Specifically, the Commission believes that the proposal will give market participants the ability to make investment decisions based upon the evaluation of their final positions after having completed trading for the day.

The Commission also believes the proposal will benefit the market in general by fostering higher quality markets at the close of the trading day. First, market makers will not have to worry about submitting exercise advices forms prior to the actual close of the market and, therefore, can more fully concentrate on providing a quality market at the close. Second, market participants will be able to determine whether or not their orders on other related markets (*i.e.*, the futures markets) were executed, such as orders intended to hedge their options positions. If their hedging transactions in other markets are not executed by 3:15 p.m. CT, then market participants, under the CBOE's proposal, will still be able to exercise their options positions and not remain in an unhedged position overnight. Third, the proposal will give market participants additional time to evaluate the closing prices of the stocks that are used to calculate the indexes and determine whether or not to exercise their positions. Finally, the proposal will structure the Exchange's rules to coincide with those of the Chicago Mercantile Exchange ("CME"), which allow their market participants an additional five minutes to settle trades after 3.15 p.m.[3] As a result, the Commission believes extending the CBOE's exercise notice cut-off time for index options will make the Exchange's index options markets more competitive with futures contracts markets on the CME that are based on the same or similar index.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change (File No. SR-CBOE-91-28) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-26373 Filed 10-31-91; 8:45 am]

BILLING CODE 8010-01-M

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[1] Securities Exchange Act Release No. 29566 (August 15, 1991), 56 FR 41713.

[2] Generally, the close of trading in index options on the CBOE is at 3:15 p.m. c.t; however, if the CBOE determines to close trading earlier than 3:15 p.m. c.t pursuant to Exchange Rule 24.7, then the deadline for submitting exercise advice forms is at such earlier time before 3:15 p.m. c.t.

[3] See CME Rule 550.

[4] 15 U.S.C. 78s(b)(2) (1982).

[Release No. 34-29870; File No. SR-CBOE-91-21]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Clarifying the Exchange's Margin Requirements for Market Makers

October 28, 1991.

On July 8, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b-4 thereunder,[2] a proposed rule change which will amend Exchange Rule 12.3(b) by: (i) Moving the margin requirements applicable to market-makers from Exchange Rule 30.41 to Exchange Rule 12.3(b)(2)(A)-(D); (ii) deleting current paragraph (A) from Exchange Rule 12.3(b)(2) and replacing it with the more specific requirements provided in Exchange Rule 30.41; (iii) relettering current paragraph (B) of Exchange Rule 12.3(b) as paragraph (E); (iv) deleting from the exceptions provided in former paragraph 30.41(a) securities convertible into those in which the member makes a market; and (v) adding to former paragraph 30.41(a) the requirement that securities be "immediately and directly" convertible into permitted offset transactions.

The proposal was published for comment in Securities Exchange Act Release No. 29640 (August 30, 1991), 56 FR 46021. No comments were received on the proposed rule change.

Currently, Exchange Rule 12.3(b)(2) contains the general margin requirements applicable to market makers' and specialists' accounts. Exchange Rule 30.41, which was adopted as part of the CBOE's application to trade stocks, warrants and other securities, provides a more detailed and accurate description of the margin requirements applicable to market makers. By moving the provisions of Exchange Rule 30.41 to Exchange Rule 12.3(b), the CBOE will consolidate the margin provisions applicable to specialists and market makers. In addition, new paragraph (A) will contain: (i) Language requiring that securities be "immediately and directly" convertible into permitted offset transactions as defined in § 220.12(b)(2) of Regulation T; and (ii) a reference to paragraph "(c)(2)(vi)" of rule 15c3-1 under the Act, which was omitted inadvertently when the CBOE's rule was adopted. The additions are intended to clarify the CBOE's rules.

The deletion from former Exchange Rule 30.41 of "securities convertible into those in which the member makes a market" from positions which may be carried on a mutually satisfactory basis reflects an amendment to the SuperShare proposal based upon a position taken by the staff of the Federal Reserve Board of Governors ("Board"). Originally, the language in Exchange Rule 30.41 was included to allow clearing members to maintain SuperUnits on a good faith basis in SuperShare market maker accounts. However, Board staff agreed to allow permitted offset treatment under § 220.12 of Regulation T to SuperUnit positions for SuperShare market makers. For that reason, the CBOE concluded that the provision in Exchange Rule 30.41 was unnecessary.[3]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[4] The proposal will clarify the Exchange's rules by adding language omitted inadvertently, consolidating the margin requirements applicable to market makers and specialists, and deleting obsolete language. By clarifying the margin rules, the proposal will facilitate compliance with the Exchange's margin requirements and help to ensure the orderly functioning of the CBOE's markets.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (SR-CBOE-91-21) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-26418 Filed 10-31-91; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1990).

[3] *See* letter from Mary Bender, CBOE, to Yvonne Fraticelli, Staff Attorney, SEC, dated October 21, 1991.

[4] 15 U.S.C. 78f (1988).

[5] 15 U.S.C. 78s(b)(2) (1988).

[6] 17 CFR 200.30-3(a)(12) (1990).

[Release No. 34-29865; File No. SR-CBOE-91-24]

Self-Regulatory Organizations; Notice of Filing of Amendments to and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Listing of Capped-Style Stock Index Options on the Standard & Poor's 100 and 500 Indexes

October 28, 1991.

I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and rule 19b-4 thereunder,[1] the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change to allow the Exchange to list capped-style stock index options ("capped options"). Initially, the CBOE proposed to list capped options on the Standard & Poor's 100 Index ("OEX").

The proposed rule change was published for comment in Securities Exchange Act Release No. 29489 (July 25, 1991), 56 FR 36852. The Commission received no comments regarding the proposal.

On July 31, 1991, the CBOE submitted Amendment No.1 to its filing. In this filing the CBOE: (1) Proposed to list capped options on the Standard & Poor's 500 Index ("SPX"); and (2) clarified the manner in which new expiration months and series will be listed. Specifically, the amendment provided that additional at-the-money series will be listed with expirations four months into the future every two months. With respect to new capped options series, the amendment provided that, if there has been a 20-point or more move in the applicable index value, then at-the-money series may be added to those expiration months with three or more months remaining to their expiration.[2]

On October 4, 1991, the CBOE submitted a second amendment to its filing. This amendment clarified the Exchange's definition of European-, American-, and capped-style options. The amendment also added a definition for "cap interval," which means the "value specified by the Exchange which, when added to the exercise price for such series (in the case of calls) or subtracted from the exercise price for such series (in the case of puts), results in the cap price for such series." In addition, the amendment modified the

[1] 17 CFR 240.19b-4 (1990).

[2] See Amendment No. 1 to File SR-CBOE-91-24.

margin requirements for capped options and proposed that, with respect to SPX capped options, at-the-money series may be listed with expirations up to one year in the future every two months.[3]

On October 17, 1991, the Exchange submitted a third amendment to its filing. This amendment conformed the deposit requirements regarding short capped options positions in a cash account to the language contained in Regulation T under the Act. The Amendment also eliminated the spread margin treatment for positions consisting of long capped options and short non-capped options because normal spread relationships do not hold for such positions.[4]

As described below, the Commission is approving the CBOE's proposal to list capped OEX and SPX options and is soliciting comments on and accelerating the approval of the Exchange's amendments to its proposal.

II. Description of the Proposal

A capped option is an option that will be automatically exercised prior to expiration if the exercise settlement value [5] for the option on any trading day equals or exceeds (in the case of calls) or equals or is less than (in the case of puts), the cap price for the option. The cap price is the value of the index underlying a series of capped options (*i.e.*, the OEX or SPX) at which the options in the series will be automatically exercised. Accordingly, the cap price is above the exercise price (*i.e.*, strike price) for calls and below the exercise price (*i.e.*, strike price) for puts. The difference between the strike price and the cap price is equal to the "cap interval." For example, a capped OEX option with a cap price of 390 and a cap interval of 30 would have a strike price of 360. While capped options will be subject to automatic exercise due to movements in the underlying index, they also will be European-style. Accordingly, other than due to automatic exercise, they can only be exercised by the holder on the day before expiration. In other words, if the underlying index fails to reach the cap price during the life of the capped option, the option becomes European-style on the last business day before expiration.

Upon automatic exercise of a capped option, the holder receives a cash settlement amount equal to the cap interval times the multiplier for the option (*i.e.*, 100 for the OEX and SPX). Under no circumstances, however, does the holder receive a cash settlement amount greater than the cap interval times the index multiplier. Therefore, the cap price establishes a maximum pre-defined value for the capped options. For example, if the OEX closes at 392 and an investor holds an OEX capped option with a strike price of 360 and a cap interval of 30, then the holder would receive a cash settlement amount equal to $3,000 (30 times $100).

If the capped option is exercised by the holder on the last business day before expiration, the holder receives a cash settlement amount equal to the difference between the exercise settlement amount on the day of exercise and the exercise price, multiplied by the index multiplier. For example, if the OEX is at 370 on an Expiration Friday and an investor holds an OEX capped option with a strike price of 360 and a cap interval of 30, then the investor would receive $1,000 (10 times $100) upon exercise of the option.

Due to their characteristics, long capped call options closely resemble vertical bull spreads traded as a single security (*i.e.*, the combination of one long and one short call position with the same expiration but where the strike price of the short call is higher than the strike price of the long call). Conversely, long capped put options closely resemble vertical bear spreads traded as a single security (*i.e.*, the combination of one long put and one short put position with the same expiration, but where the strike price of the short put is lower than the strike price of the long put).

The CBOE has proposed the following rule changes to accommodate the trading of capped options. First, the CBOE has amended its Rule 24.1, which sets forth definitions with respect to stock index options, to define a capped-style option and capped-style stock index option, as well as cap interval and cap price. The Exchange also has clarified its definitions of American-style and European-style options and stock index options.

Second, the CBOE proposes to amend its Rule 24.5 entitled "Exercise Limits" by adding an Interpretation .02 which provides that capped options will not be included when calculating exercise limits for index options. This amendment is designed to avoid instances where an investor would violate exercise limits by virtue of the automatic exercise of his capped options, an event the investor has no control over. Positions in capped options and American- and European-style options, however, will be aggregated for position limit purposes.

Third, the CBOE proposes to add Interpretation .03 to Exchange Rule 24.9 entitled "Terms of Option Contracts." Interpretation .03 specifies an initial cap interval of 30 points, which may be modified by the Exchange's Product Development Committee. In addition, Interpretation .03 provides that: (1) One at-the-money call and put series will be listed with an expiration of up to four months in the future for OEX capped options and up to one year in the future for SPX capped options; (2) additional at-the-money series will be listed every other month; and (3) if the underlying index moves 20 points or more in value, then additional at-the-money series may be added to those expiration months with three months or more remaining to their expiration.

Fourth, the Exchange proposes to amend rule 24.11 to provide for the following margin treatment for short positions in capped options. For cash accounts the investor must deposit an amount equal to the cap interval times the index multiplier in cash or cash equivalents as defined in § 220.8(c) of Regulation T under the Act. For margin accounts, the margin requirement is 100% of the option premium plus 15% of the underlying index value times the index multiplier. The maximum margin required, however, can never exceed the value of the cap interval times the index multiplier. Consistent with the margin treatment for other stock index options, the proposal also provides for a decrease in the amount of margin required up to a certain point, if the option is out-of-the-money. Lastly, the proposal provides that spread margining is unavailable for positions consisting of long capped options and short non-capped options because, according to the CBOE, normal spread relationships do not hold for such positions.

III. Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5),[6] and, therefore, approves the Exchange's proposal and grants accelerated approval of the amendments thereto.[7]

[3] See Amendment No. 2 to File SR–CBOE–91–24.

[4] See Amendment No. 3 to File SR–CBOE–91–24.

[5] The exercise settlement value for OEX and SPX capped options is the value of the OEX and SPX, respectively, determined for each trading day as of the close of trading, unless another time of day is specified by the CBOE.

[6] 15 U.S.C. 78f(b)(5) (1984).

[7] *See supra* notes 2–4 and accompanying text. In conjunction with this approval order for capped

Continued

Specifically, the Commission believes that the capped options are an innovative financial product that will provide investors with additional choice and flexibility in their use of derivatives. In addition, capped options offer both holders and writers of options a means to participate in the options markets at a predetermined maximum gain or loss. Under the terms of the capped options, the options writer's (holder's) maximum loss (gain) is established at the time of the investment by the option's cap interval. Once the option's cap price (the strike price plus the cap interval for a call or the strike price minus the cap interval for a put) has been reached, the option is exercised automatically. The option writer's maximum potential liability is the amount of the cap interval, and, conversely, the option holder's maximum gain is the amount of the cap interval. Thus, capped options permit investors to participate in the options market at a known and limited cost. By limiting some of the risks associated with spread positions in American-style and European-style options, capped options likely will make the options markets more attractive to a broader range of investors. In addition, the Commission notes that capped options, which are the equivalent of vertical bull and bear spreads traded as a single security, likely will benefit investors by providing them with a more efficient and cost effective method of executing spread transactions.

The Commission also finds that the specific rules proposed by the CBOE to accommodate capped options are consistent with the Act.[8] Specifically, the Commission believes it is reasonable for the Exchange to set a cap interval of 30 in that the cap price is placed sufficiently far from the exercise price so that the capped options will not be exercised automatically on a frequent basis.[9]

In addition, the Commission believes that the Exchange's proposal to bring up new at-the-money series of capped options every other month and after significant market moves is consistent with the Act because it will not result in a proliferation of options series. The Commission also finds that it is consistent with the Act to exclude capped options from exercise limit calculations because holders of capped options have no control over when their positions will be exercised, except on the last business day before expiration of the options. Moreover, the Commission notes that capped options are not excluded from position limit calculations, in that capped options are aggregated with non-capped index options for position limit purposes.

Finally, the Commission believes that the proposed margin treatment for capped options in cash and margin accounts is consistent with the Act. Specifically, the Commission believes that it is consistent with the Act to permit short capped options positions in a cash account so long as the maximum exposure (the difference between the exercise price and the cap price times the index multiplier) is deposited.[10] This position is the equivalent of a completely covered position, because the maximum risk of loss is already on deposit. In addition, the Commission believes the proposed margin requirements for capped options positions maintained in margin accounts is consistent with the Act because they are virtually identical to the margin requirements for short stock index options positions in non-capped stock index options held in margin accounts, except for the fact that a limit equal to the maximum exposure to the option writer is placed on the margin requirement. It is reasonable to limit the margin in this fashion because, if the limit is invoked, the margin covers 100% of the exposure to the writer and no additional margin calls need be made.[11]

Lastly, the Commission believes that the automatic exercise feature of capped options necessitates that the CBOE ensure that the exercise settlement values for the OEX and SPX are accurate at all times. An erroneous exercise settlement value could conceivably result in the unwarranted automatic exercise of capped options and the irreversible elimination of an options position. Accordingly, in this regard, the Commission notes that the CBOE, in conjunction with the Standard & Poor's Corporation, has developed procedures to identify and correct any inaccurate exercise settlement values before they are transmitted to the Options Clearing Corporation for clearance and settlement purposes.[12]

The Commission finds good cause for approving the CBOE's proposal to list capped options based on the SPX prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** because the Exchange's proposal to list capped options based on the OEX, which is identical to the SPX capped options proposal but for the underlying index, was subject to the full notice and comment period. As noted above, the Commission received no adverse comments concerning the proposal to list capped OEX options. Because there have been no adverse comments concerning the proposal to list capped OEX options, and because the terms of the options in both proposals are identical, the Commission believes that good cause exists for approving the proposed rule change on an accelerated basis.

With respect to the amendments to the proposal establishing applicable margin requirements, the Commission finds good cause for accelerating them because they are consistent with the margin methodology establishing margin levels for other stock index options products. Moreover, the margin requirements for capped options provides for greater coverage than non-capped options given the current index levels of the OEX and SPX indexes. Accordingly, they do not result in the lessening of margin requirements. For the remainder of the provisions contained in the Exchange's amendments, they are being approved on an accelerated basis because they are technical in nature.

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options, the Commission also has approved for distribution a supplement to the Options Disclosure Document entitled Characteristics and Risks of Standardized Options that describes the characteristics and risks of trading in capped options. This supplement must be provided to investors in capped options before their accounts are approved for transctions in capped options or their orders for capped options are accepted. *See* Securities Exchange Act Release No. 29850 (October 23, 1991).

[8] The Commission notes that CBOE Rule 24.1, as amended, defines capped-style options and capped-style stock index options. Because the current Exchange proposal is limited to capped OEX and SPX options, should the CBOE decide to list capped options on another stock index or an individual security, then the Commission believes an Exchange rule filing made pursuant to section 19(b) of the Act would be necessary.

[9] The Commission notes that a rule filing pursuant to section 19(b) of the Act would be necessary if the CBOE decided to change the present cap interval.

[10] The CBOE has received a letter from the staff of the Board of Governors of the Federal Reserve Board ("FRB") that concurs with this treatment of capped options. *See* letter from Laura Homer, Securities Credit Officer, Division of Banking Supervision and Regulation, FRB, to Diane M. Malley, Supervisor, Department of Financial Compliance, CBOE, dated October 11, 1991.

[11] At current index levels for the OEX and SPX, a 30–point cap interval equals 8.2% and 7.7%, respectively, of these indexes. while margin equal to this is less than the 15% initial and 10% minimum margin levels for regular OEX and SPX options contracts, it provides for greater coverage against possible index movement for capped OEX and SPX options than the 15% and 10% levels do for non-capped OEX and SPX options.

[12] See letter from Richard G. DuFour, Executive Vice President, CBOE, to Thomas Gira, Branch Chief, Options Regulation, Division of Market Regulation, SEC, dated October 24, 1991.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 22, 1991.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–91–24) is approved. For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26419 Filed 10–31–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29859; File No. SR–NASD–91–44]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Mandatory Display of Size in Quotations in NASDAQ Securities

October 25, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 22, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") 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 NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[13] 15 U.S.C. 78s(b) (2) (1988)

[14] 17 CFR 200.30–3(a) (12) (1990)

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend Schedule D to the NASD By-Laws [1] and the Rules or Practice and Procedure for the Small Order Execution System ("SOES") [2] to require display of minimum sizes in quotations for NASDAQ securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD is proposing an amendment to Schedule D to the NASD By-Laws requiring market makers in NASDAQ securities to display size in their quotations, (*i.e.*, the number of shares the market maker is required to buy or sell at the stated quotation), equal to the maximum order size in SOES. The NASD is also proposing an amendment to the SOES Rules regarding "maximum order size." For NASDAQ stocks that are not National Market System securities, the proposed display of size is 500 shares.

In 1990, the SEC approved a rule proposal by the NASD to require mandatory display of size for market makers that participate in SOES,[3] that included all market makers in National Market System securities and those market makers that voluntarily participated in SOES for NASDAQ stocks. The NASD proposed mandatory display of size following the 1987 market break after the staff of the SEC recommended that "the NASD and the Commission should reconsider, in light of the market break, the need to require the market makers to include realistic sizes as part of their quotations." [4] In response to this recommendation, and a similar recommendation by the NASD's Quality of Markets Committee, the NASD amended Schedule D to require market makers in NASDAQ securities, who are also market makers in SOES, to display size in NASDAQ at least equal to the maximum size of an order eligible for automatic execution in SOES. The current rule proposal will extend that requirement to all market makers, whether or not they participate in SOES.

Under the Rules of Practice and Procedure for SOES, market makers are required to execute orders through SOES in sizes equal to or smaller than the "maximum order size" as is published from time to time by the Association. These order size limits are currently 200, 500 and 1,000 shares for National Market System securities, and 500 shares for NASDAQ securities. After six months of experience with mandatory display of size, the NASD believes that it is now appropriate to expand the requirement to market makers in all NASDAQ securities. The NASD believes that display of size in quotations reflects a more realistic picture of the actual size of executions available and the depth of the market in each security, especially for market makers that choose to participate in SOES. In addition, display of size enhances investor knowledge and is also beneficial to issuers by publicizing the liquidity and depth of the market for their securities. Market makers currently not participating in SOES may nonetheless be routinely executing orders with customers at greater sizes which are not reflected in the quotations displayed in the NASDAQ system. The availability of more accurate size information is of fundamental importance to the investing public and is believed to more realistically reflect the depth and liquidity of the market making commitment to NASDAQ issues.

Additionally, requiring all NASDAQ market makers to display minimum size in their quotations will ease the inequitable application of the current display requirements. The requirement to post 500 shares currently applies only to market makers that choose to participate in SOES, since SOES is voluntary for NASDAQ stocks that are not National Market System securities. The market makers that choose to participate in SOES must also honor all incoming orders at their displayed size of 500 shares because of SEC Rule

[1] *NASD Securities Dealers Manual,* Schedule D to the By-Laws, Part VI, § 2, CCH ¶ 1819.

[2] *NASD Securities Dealers Manual,* SOES Rules, section a, CCH ¶ 2451.

[3] See Securities Exchange Act Release No. 28450 (September 18, 1990), 55 FR 39221 (September 25, 1990), approving File No. SR–NASD–89–12.

[4] The October 1987 Market Break, A Report by the Division of Market Regulation, (February 1988) at xxiv.

11Ac1–1, the "firm quote rule." [5] Market makers that agree to participate in SOES therefore are disadvantaged by the current rule because they must also honor orders from competing market makers in the issues, but may only get executions of 100 shares from those same market makers that do not participate in SOES and that quote size of only 100 shares. The NASD believes that extending the requirement to display size to all market makers, whether they participate in SOES or not, is an equitable remedy. Therefore, the NASD is proposing the display of 500 share size for NASDAQ issues that are not National Market System securities for all market makers, with exception authority for high priced issues or other unique characteristics.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." The proposed rule will apply to all NASDAQ market makers in regular NASDAQ securities and will enhance the quality, liquidity, and depth of NASDAQ and provide greater information to the investigating public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 22, 1991.

For the Commission, by the Division of Market Regulation, Pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26374 Filed 10–31–91; 8:45 am]

BILLING CODE 8010–01–M

[5] Securities Exchange Act Rule 11Ac1–1(c)(2), CCH ¶ 21, 121, 17 CFR 240.11Ac1–1.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

October 28, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Diagnostic/Retrieval Systems, Inc.
Class B Common Stock, $.01 Par Value (File No. 7–7462)
HealthCare & Retirement Corporation
Common Stock, $.01 Par Value (File No. 7–7463)
NovaCare, Inc.
Common Stock, $.01 Par Value (File No. 7–7464)
System Industries, Inc.
Common Stock, $.01 Par Value (File No. 7–7465)
Bamberger Polymers, Inc.
Warrants to Purchase Common Stock at $3.50 per share expiring 12/31/96) (File No. 7–7466)
Gaylord Entertainment Company
Common Stock, $.01 Par Value (File No. 7–7467)
Latin America Equity Fund, Inc.
Common Stock, $.001 Par Value (File No. 7–7468)
Scherer (R.P.) Corporation
Common Stock, $.01 Par Value File No. 7–7469)
Total
American Depositary Shares (each representing ⅛ of a B Share) (File No. 7–7470)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 19, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–26366 Filed 10–31–91; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for hearing; Pacific Stock Exchange, Incorporated

October 28, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

NovaCare
common Stock, $.01 Par Value (File No. 7–7458)

Medeva Plc
American Depositary Receipts (File No. 7–7459)
Health Care and Retirement Corporation
Common Stock, $.01 Par Value (File No. 7–7460)
Total
American Depositary Receipts (File No. 7–7461)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 19, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Gatz,

Secretary.

[FR Doc. 91–26367 Filed 10–31–91; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

October 28, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Frischs Restaurants, Inc.
Common Stock, No Par Value (File No. 7–7471)
Mexico Equity and Income Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–7472)
North American Vaccine
Common Stock, $.01 Par Value (File No. 7–7473)
Indonesia Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–7474)
Russ Togs, Inc.
Common Stock, $1 Par Value (File No. 7–7475)
American Capital Bond Fund, Inc.
Common Stock, $1 Par Value (File No. 7–7476)
American Real Estate Partner L.P.
Limited Partnership Units (File No. 7–7477)
American Realty Trust SBI
Common Stock, $0.01 Par Value (File No. 7–7478)
NovaCare, Inc.
Common Stock, $.01 Par Value (File No. 7–7479)
Barr Laboratories
Common Stock, $0.01 Par Value (File No. 7–7480)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 19, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application of it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–26368 Filed 10–31–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18377; 812–7666]

Freedom Investment Trust, et al.; Application

October 24, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Freedom Investment Trust ("Freedom I") on behalf of itself and its portfolio series (namely, Freedom Gold & Government Trust, Freedom Regional Bank Fund, Freedom Government Income Fund, Freedom Equity Value Fund, Freedom Managed Tax Exempt Fund and Freedom Money Market Fund), Freedom Investment Trust II ("Freedom II") on behalf of itself and its portfolio series (namely, Freedom Global Fund, Freedom Global Income Fund and Freedom Short-Term World Income Fund), Freedom Investment Trust III ("Freedom III") on behalf of itself and its portfolio series (namely, Freedom Environmental Fund and Freedom Discovery Fund), Freedom Mutual Fund ("Freedom Mutual") on behalf of itself and its portfolio series (namely, Freedom Cash Management Fund and Freedom Government Securities Fund), and Freedom Group of Tax Exempt Funds ("Freedom Tax Exempt") on behalf of itself and its portfolio series (namely, Freedom Tax Exempt Money Fund and Freedom California Tax Exempt Money Fund) (Freedom I, Freedom II, Freedom III, Freedom Mutual and Freedom Tax Exempt being referred to collectively as the "Trusts" and all of the portfolio series of the Trusts being referred to collectively as the "Funds"), Freedom Capital Management Corporation (the "Adviser"), and Freedom Distributors Corporation and Tucker Anthony Incorporated (the "Distributors").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) of the Act from the provisions of sections 18(f), 18(g) and 18(i) of such Act.

SUMMARY OF APPLICATION: Applicants are requesting an order pursuant to section 6(c) of the Act (the "Order"). The Order would exempt certain series of the Trusts from the provisions of sections 18(f), 18(g) and 18(i) of the Act to the extent necessary to permit the Funds to issue three classes of securities representing interests in the same portfolio of investments for the purpose of establishing a multi-class distribution system (the "Selective Pricing System").

FILING DATE: The application was filed on December 24, 1990 and amendments thereto were filed on May 22, 1991; August 22, 1991, and October 23, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 19, 1991, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, One Beacon Street, 4th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, at (202) 272–2190 or Barry D. Miller, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

Each of the Trusts is a management investment company organized as a Massachusetts business trust. Each Trust also is a "series company" as contemplated by rule 18f–2 of the Act. The Adviser serves as the Trusts' investment adviser and manager, and the Distributors act as principal underwriters of shares of series of the Trusts.

2. Currently, Freedom I and Freedom II series (except Freedom Money Market Fund) and Freedom Discovery series of Freedom III offer their shares to the public subject to a contingent deferred sales load ("CDSL") and a distribution fee pursuant to a rule 12b–1 plan (the "CDSL Funds").[1] Freedom Environmental Fund offer their shares to investors at net asset value ("NAV") plus a front-end sales load (the "Front-End Load Funds"). Freedom Environment Fund also pays a rule 12b–1 fee, although the rate of such payments is lower than that applicable to the CDSL Funds. Shares of each of the existing series of Freedom Mutual and Freedom Tax Exempt are offered at NAV with no sales charge or distribution fees (the "No-Load Funds"). The Freedom Money Market Fund series of Freedom I (the "Money Market Fund") also offers its shares without any sales load or distribution fee.

3. Applicants request that any relief also apply to any open-end management investment companies to be established in the future that are part of the same "group of investment companies," as that term is defined in rule 11a–3 under the Act, and to any future portfolio series of the Trusts or such future open-end management investment companies (i) which hold themselves out to investors as being related for purposes of investment and investor services, and (ii) (X) whose principal investment adviser is the Adviser, an affiliate of the Adviser, an investment adviser that is under common control with the Adviser (as "control" is defined in section 2(a)(9) of the Act), or any successors of such persons, or (Y) whose principal underwriter is either of the Distributors, an affiliate of either of the Distributors, a principal underwriter that is under common control with either of the Distributors (as "control" is defined in section 2(a)(9) of the Act), or any successors of such persons. Accordingly, wherever the term "Applicants" appears herein, it shall also be deemed to include such future open-end investment companies and such future portfolio series. Applicants undertake that any such future open-end investment companies and such future portfolio series will be subject to each of the conditions contained in the application.

4. Applicants propose the establishment of a Selective Pricing System which would enable each of the Trusts to offer investors the option of purchasing shares of the Funds either subject to a front-end sales load and a rule 12b–1 fee (the "Front-End Load Option") or subject to a CDSL and a higher rule 12b–1 fee (the "Deferred Option"). In addition, each of the CDSL Funds and the Front-End Load Funds may offer a third class of shares exclusively to tax-exempt retirement plans of the Adviser and Tucker Anthony and their affiliates, certain unit investment trusts ("UITs"), and certain qualified retirement plans. Such retirement plans and the plans described above are collectively referred to herein as the "Benefit Plans." These shares will be offered without imposition of a front-end sales load, a CDSL, or any distribution fees. The No-Load Funds will continue to be offered on a no load basis. However, it is contemplated that Freedom Mutual and Freedom Tax Exempt may in the future each offer investors new series of shares subject to the Selective Pricing System.

5. If the requested relief is granted, each Fund (except the Money Market Fund) would be able to create two new classes of shares. The classes created by each Fund depends on the distribution method currently used by that Fund (*e.g.*, if the Fund currently issues securities subject to a CDSL, the Fund may create a class subject to a front-end sales load). Securities subject to the Front-End Load Option would be designated Class A, securities subject to the Deferred Option would be designated Class B, securities not subject to any sales load or rule 12b–1 fee would be designated Class C. With regard to the Money Market Fund, this fund also would be able to create two new classes of shares: (1) Class A shares will be no load shares and will not be subject to any rule 12b–1 fee, and (2) Class B shares will be no load shares and will be subject to a .75% rule 12b–1 fee. Existing shares of the Money Market Fund will be designated Class C, retaining their current no load and no rule 12b–1 fee status. Applicants represent that references to the three classes of shares are intended to include the three classes of the Money Market Fund shares, except to the extent these classes differ from the other Funds' classes as described above and as to different exchange privileges described later in this notice.

6. Each of the three classes would represent interests in the same portfolio of investments of a Fund and would be identical in all respects except that (i) with respect to the Class A shares and Class B shares, the distribution fees charged pursuant to rule 12b–1 would be higher for Class B shares; (ii) transfer agency costs attributable to each class would be highest for Class B shares and transfer agency costs imposed on Class A shares will be higher than Class C shares; (iii) each class would bear any other incremental expenses subsequently identified that should be properly allocated to that class which shall be approved by the Commission pursuant to an amended order; (iv) the three classes would have different exchange privileges; (v) Class A and Class B would vote separately as a class with respect to each of the Fund's rule 12b–1 distribution plans; and (vi) Class C would not be subject to any distribution fee.

7. Under the Front-End Load Option, an investor would purchase Class A shares at NAV plus a front-end sales load. The sales load would be subject to reductions for larger purchases, under a quantity discount, under a right of accumulation or under a letter of intent. Further, the sales load would be subject to certain other reductions permitted by section 22(d) of the Act and set forth in the registration statement of each of the Funds. Each of the Funds also would pay to the Distributors a rule 12b–1 fee of up to .25 of 1.00% of the average daily NAV of the Class A shares.

8. Investors choosing the Deferred Option would purchase Class B shares at NAV per share without the imposition of a sales load at the time of purchase. Each Fund would pay to the Distributors a rule 12b–1 fee of up to 1.00% of the average daily NAV of Class B shares. In addition, an investor's proceeds from a redemption of Class B shares made within a specified period after purchase,

[1] The CDSL Funds may assess a CDSL based on prior exemptive orders granting such relief as described in exhibit A of the application ("CDSL Order").

ranging from one to six years, generally would be subject to a CDSL paid to the Distributors. The CDSL typically ranges from 1% to 5% (but can be higher or lower) on shares redeemed during the first year after purchase and generally will be reduced at a rate of either 1% or .50% per year over the applicable CDSL period. The CDSL would be made subject to the conditions set forth in the CDSL Order. The Deferred Option is designed to permit the investor to purchase Class B shares without the assessment of a front-end sales load and at the same time permit the Distributors to pay a commission on the sale of the Class B shares to securities dealers and others selling shares of a Fund.

9. Under each Fund's applicable distribution plan, the Distributors would not be entitled to any specific percentage of the NAV of each class of shares of such Fund or other specific amount. Each Fund's distribution plan will provide that such fee will be used in its entirety by the Distributors to defray its expenses with respect to providing distribution-related services (including, in the case of the Class B shares, commission expenses). Each Fund will accrue and pay the distribution fee at a rate fixed by such Fund's Trustees (but not in excess of the applicable maximum percentage rate). Such rate is intended to result in payments that will not exceed the amounts actually expended for distribution by the Distributors on behalf of a Fund. If for any fiscal year of a Fund the amount paid to the Distributors would exceed the amount of distribution expenses incurred by the Distributors with respect to such Fund (plus, in the case of Class B shares, prior unreimbursed commission-related expenses), then the amount of the distribution fee paid to the Distributors would be reduced accordingly.

10. Class C shares will not be subject to any sales load nor to any rule 12b–1 plan fees. Class C shares will be offered exclusively to the following three limited categories of investors: (i) qualified retirement plans, other than individual retirement accounts and self-employed retirement plans, with total assets in excess of $5 million or such other amount as the Funds may establish and with such other characteristics as the Funds may establish; (ii) tax-exempt retirement plans of the Adviser and Tucker Anthony and its affiliates; and (iii) certain UITs sponsored by Tucker Anthony or its affiliates. Only investors in category (i) may be unaffiliated with Applicants. Although applicants are unable to specifically identify the benefit plans falling within group (i) above, those plans would have several common features. Among these would be the existence of a minimum size of more than $5 million in plan assets, a separate trustee for the plan and certain limitations on the ability of the plan beneficiaries to access their plan's investments without incurring adverse tax consequences. It is possible that the Adviser may serve as investment adviser to some, but not all, of these plans. Moreover, the Class C shares will be offered only to plans in category (i) for which a trustee is vested with investment discretion as to plan assets. Applicants will exclude self-directed plans, where an individual plan beneficiary can make an investment decision. Thus, this category of Class C offerees will consist exclusively of sophisticated investors, such as banks or other financial institutions. The second category of Class C offerees is even narrower. Class C offerees will consist of qualified defined contribution plans maintained pursuant to 401(a) of the Internal Revenue Code by the Adviser, Tucker Anthony and their affiliates for the benefit of their employees, where the assets are held in trust by a trustee and employees have limited pre-retirement access to the assets. Finally, the third category of Class C offerees is restricted to UITs. The UITs to which Class C shares may be offered will, under current regulations, be subject to a separate order of exemption pursuant to sectibn 6(c) of the Act.[2] In addition, the UITs would invest their assets in fixed pools of securities, which would include Class C shares of the Funds but would in all cases also include other securities. In most cases (other than self-directed retirement plans), the trustee of the plan or depositor of the UIT would possess the investment and voting power with respect to the Fund shares. The ultimate plan beneficiary or UIT shareholder would hold no direct interest in the Class C shares of a Fund, and in fact would not even (except in the case of a self-directed plan) be involved in the decision to purchase or sell or to vote such shares. Applicants submit that these facts strongly support Applicants' representations that the Class C shares will be offered to an extremely circumscribed category of investors; such offerees will not overlap with the general retail investors to whom the Class A and Class B shares are offered.

11. The Distributors will furnish the Trustees of each of the Funds with quarterly and annual statements of distribution revenues and expenditures for each class ("Statements") in compliance with paragraph (b)(3)(ii) of rule 12b–1, to enable the Trustees to make the findings required by paragraphs (d) and (e) of rule 12b–1. Expenditures not related to the sale of a particular class will not be presented to the Trustees to justify any fee attributable to that class. Distribution expenses attributable to both Class A and Class B shares will be allocated monthly based upon a rolling twelve month period to the Class A and Class B shares so that one-half of the expense will be allocated based upon the ratio in which the average daily net assets of each such class bears to the average daily net assets of all the Class A and Class B shares of a particular Fund and one-half of such expenses will be allocated based upon the ratio in which the gross sales dollars of each such class bears to the gross sales dollars of all the Class A and Class B shares of such Fund. Distribution expenses attributable to sales of Class C shares, if any, will be borne by the Adviser and will not be borne by any class of shares. This sales structure is designed to reflect the different distribution costs and related administrative expenses incurred in connection with the sale of shares of Class A and Class B compared to expenses incurred with sales to the Benefit Plans and the UITs.

12. Upon implementation of the Selective Pricing System, Class A shares of the Funds will be exchangeable only for Class A shares of other Funds and Class B shares of the Funds will be exchangeable only for Class B shares of other Funds. Similarly, Class C shares of the Funds will be exchangeable only for Class C shares of the other Funds (except with respect to existing shareholders of the Money Market Fund). Existing shares of the Money Market Fund will be designated Class C, retaining their no load and no distribution fee status. Current shareholders will not be permitted to make additional investments into this class or exchanges into the Class C shares. Moreover, new investors will not be able to enter this class. Rather, existing shareholders who exchanged into the Fund from a Front-End Load Fund or who made initial investments into the Money Market Fund will be able to exchange their shares for Class A or B shares of the other Funds. Present shareholders of the Money

[2] At this time, neither applicants nor any of its affiliates has created any such UITs, although applicants have received exemptive relief to do so. See Freedom Investment Trust, et al., Investment Company Act Rel. Nos. 17520 (June 5, 1990) (notice) and 17562 (July 3, 1990) (order). Applicants represent that this order will need to be amended prior to any such UITs investing in Class C shares.

Market Fund who exchanged into the Fund from a CDSL Fund will be able to exchange into Class B shares of another Fund.[3]

13. Under the Selective Pricing System, in computing NAV of all outstanding shares of all classes, gross income and expenses not attributable to a specific class will be allocated pro rata to each class on the basis of relative NAV of the respective classes except for, with respect to Class A and Class B shares, the expenses of the distribution plans applicable to each class of shares and incremental transfer agency costs, which will be borne by Class B. Because of the additional expenses that would be borne solely by Class B, the net income attributable to and the dividends payable on Class B shares would be lower than the net income attributable to and the dividends payable on Class A shares. In addition, because the Class C shares will not bear any rule 12b–1 fee and because it is anticipated that the transfer agency fees may be lower than those attributed to shares of Class A and Class B, the net income attributable to and the dividends payable on Class C shares would be higher than the net income attributable to and the dividends payable on either Class A or Class B shares. To the extent that a Fund has undistributed net income, the net asset value of the Class A shares will be higher than the net asset value of the Class B shares and the net asset value of the Class C shares would be higher than that of either the shares of Class A or Class B.

14. Applicants will offer the Class A shares and Class B shares to the public through a single prospectus. (With regard to the Money Market Fund, however, Classes A, B, and C will be included in a single prospectus.) Class C shares, which will be offered exclusively to the Benefit Plans and the UITs, will either be offered in the same prospectus or solely through a separate prospectus. Each Fund will disclose in its prospectus material information applicable to each class of shares offered through the prospectus. If Class C shares are offered solely through a separate prospectus, the prospectus for Class A and Class B shares of that Fund will identify the existence of the Class C shares of the Fund and will identify the entities eligible to purchase such shares, and the Class C prospectus will identify the existence of the Fund's Class A and Class B shares. The shareholder reports of each Fund will disclose the respective expenses and performance data applicable to each class of shares. (*See* condition 12 under Applicants' Conditions for the specific information that must be disclosed.)

Applicants' Legal Analysis

1. Applicants seek an exemption from sections 18(g), 18(f)(1), and 18(i) to the extent the Selective Pricing System may result in a senior security, as defined by section 18(g), the issuance and sale of which would be prohibited by section 18(f)(i), and to the extent the allocation of voting rights under the Selective Pricing System may violate the provisions of section 18(i) of the Act.[4] Applicants represent that the Selective Pricing System does not raise any of the legislative concerns that section 18 of the Act was designed to redress. The proposal does not involve borrowings and does not affect the Funds' existing assets or reserves. In addition, the proposed arrangement will not increase the speculative character of the shares of the Funds since all such shares will participate pro rata in all of a Fund's income and all of a Fund's expenses with the exception of the differing rule 12b–1 fees and transfer agency costs.

2. Applicants believe that the Selective Pricing System will both facilitate the distribution of their securities and provide investors with a broader choice as to the method of purchasing shares. Investors will be able to choose the method of purchasing shares that is most beneficial given the amount of their purchase, the length of time the investors expect to hold their shares and other relevant circumstances.

3. Applicants believe owners of each class of shares may be relieved of a portion of the fixed costs normally associated with mutual funds since such costs would, potentially, be spread over a greater number of shares than they would be otherwise. Similarly, shareholders of any class in Funds with advisory agreements under which the fee rates decrease as the net assets of the particular Fund increase could expect to enjoy, under the proposed arrangement, lower effective management and advisory fee rates than they would enjoy if the arrangement is not implemented. Moreover, the establishment of the Class C shares would permit the Funds to offer their shares to the Benefit Plans under arrangements that would reflect the predominant pricing method for institutional products and to the UITs under arrangements that accurately reflect the reduced costs of issuance of shares to the UITs. Class C then may attract assets to the Funds to the benefit of the holders of all classes.

4. The Funds are aware of the need for full disclosure of the proposed Selective Pricing System and of the differences among the various classes of shares in each Fund's prospectus (and, to the extent necessary, the statement of additional information). Because of the substantial distinctions between Class A and Class B offerees, on the one hand, and Class C offerees on the other, Applicants believe that presentation of certain Class C data to investors who are eligible to purchase only Class A or Class B shares may be confusing or potentially misleading. Applicants intend to offer Class A and Class B shares to the public via a single prospectus; Class C shares, which will be offered exclusively to the Benefit Plans and the UITs, will either be offered in the same prospectus or solely via a separate prospectus. Class C is offered to a very limited group which will not overlap with the general retail investors of Class A or Class B. Legal obstacles also exist that prevent many of the Class C offerees from investing in the other classes. In light of the foregoing, if applicants choose to offer Class C through a separate prospectus, the prospectus for Class A and Class B shares will identify the existence of Class C and the entities eligible to purchase such shares, and the Class C prospectus will identify the existence of the Fund's Class A and Class B shares. (In the case of the Money Market Fund, all three classes will be included in a single prospectus.)

5. Each class of shares will be redeemable at all times and no class of shares will have any preference or priority over any other class in a Fund in the usual sense (that is, no class will have distribution or liquidation preferences with respect to particular assets, no class will have any right to require that lapsed dividends be paid before dividends are declared on the other class and no class will be protected by any reserve or other

[3] Currently, if a shareholder exchanges shares in a CDSL Fund for shares in the Money Market Fund, the time period for which shareholders are invested in the Money Market Fund is not included when calculating any applicable CDSL. Class C permits applicants to keep the status quo for these existing shareholders with regard to calculating their CDSL. Upon implementation of the Selective Pricing System, shareholders of a CDSL Fund may exchange their shares for Class B shares of the Money Market Fund. Since a rule 12b–1 fee will continue to be assessed, the time period for which the investor remains in the Money Market Fund will be included in calculating any applicable CDSL.

[4] Applicants acknowledge that the terms of Class A and Class C shares of the Money Market Fund are the same (except that Class C shares may be subject to a CDSL if the investor exchanged shares of a CDSL Fund for shares in the Money Market Fund). Consequently, exemptive relief under section 18 of the Act may not be required with respect to the above shares.

account). Furthermore, the similarities as well as any dissimilarities (the rule 12b–1 distribution plans and associated voting rights, the transfer agency costs, and the exchange privileges) of the Class A, Class B and Class C shares (if the latter are included in a single prospectus) will be fully disclosed in the Funds' prospectuses and statements of additional information. Consequently, investors will not be given misleading impressions as to the safety or risk of any class of shares and the nature of the Class A, Class B and Class C shares will not be rendered speculative.

Applicants' Conditions

The Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. The Class A, Class B and Class C shares will represent interests in the same portfolio of investments of a Fund, and be identical in all respects, except as set forth below. The only differences between Class A, Class B and Class C shares of the same fund will relate solely to: (a) the impact of the disproportionate rule 12b–1 distribution plan payments allocated to each of the Class A shareholders and Class B shareholders of a Fund, or, in the case of Class C shares (or the Class A shares of the Freedom Money Market Fund), the absence of any such distribution plan payments, any higher incremental transfer agency costs attributable to the Class B or Class A shares of a Fund, and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order, (b) the fact that each of Class A and Class B shares will vote separately as a class with respect to a Fund's rule 12b–1 distribution plan, (c) the different exchange privileges of the Class A, Class B or Class C shares, and (d) the designation of each class of shares of a Fund.

2. The Trustees of each of the Trusts, including majority of the independent Trustees, have authorized the establishment of a Selective Pricing System for the Funds. Prior to the implementation of the Selective Pricing System by a particular Fund, the Trustees of that Fund, including a majority of the independent Trustees, will approve the creation and issuance of the second and third classes of shares, and the offering of the second and third classes of shares by means of the Selective Pricing System. Also, the Trustee of each of the Trusts, including a majority of the independent Trustees, will approve the terms of rule 12b–1 distrubution plans for the newly created Class B shares in the case of the Front-End Load Funds and the Class A shares in the case of the CDSL Funds prior to the implementation of each such distribution plan with respect to such shares. The minutes of the meetings of the Trustees of each of the Funds regarding the deliberations of the Trustees with respect to the approvals will reflect in detail the reasons for determining that the proposed Selective Pricing System is in the best interest of both the Funds and their respective shareholders.

3. On an ongoing basis, the Trustees of the Funds, pursuant to their fiduciary responsibilities under the Investment Company Act and otherwise, will review each Fund for the existence of any material conflicts among the interests of the three classes of shares. The Trustees, including a majority of the independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributors will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, the Adviser and the Distributors at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. Any rule 12b–1 plan adopted or amended to permit the assessment of rule 12b–1 fees on any class which has not had its rule 12b–1 plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class first becomes effective.

5. The Trustees of the Funds will receive quarterly and annual statements concerning distribution expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended. from time to time. In the Statements, only expenditures properly attributable to the sale of a particular class of shares will be used to justify any distribution fee charged to that class. Expenditures not related to the sale of a particular class will not be presented to the Tustees to justify any fee attributable to that class. The Statements, including the allocation upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

6. Dividends paid by each Fund with respect to its Class A, Class B and Class C shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day and will be in the same amount, except that distribution fee payments relating to the Class A and Class B shares will be borne exclusively by each such class and any incremental transfer agency costs relating to Class B or Class A shares will be borne exclusively by such class.

7. The methodology and procedures for calculating the net asset value and dividends and distributions of the three classes and the proper allocation of expenses among the three classes has been reviewed by an expert (the "Expert") who has rendered a report to the applicants (in the form of exhibit E to the application) which provides, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will review the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Investment Company Act. The work papers of the Expert with the respect to such reports, following requests by the Funds (which the Funds agree to provide), will be available for inspection by the staff of the Commission upon the written request to the Funds for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. The Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset

value and dividends and distribution of the three classes of shares and the proper allocation of expenses among the three classes of shares and this representation will be concurred with by the Expert in the initial report referred to in condition (7) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (7) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

9. The prospectuses of the Funds will contain a statement to the effect that a salesperson and any other person entitled to receive any compensation for selling Fund shares may receive different compensation for selling Class A, Class B or Class C shares.

10. The Distributors will adopt compliance standards, as to when Class A, Class B and Class C shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to such standards. Applicants compliance standards will require all investors eligible to purchase Class C shares of a Fund offering such shares to invest in Class C rather than Class A or Class B shares of such Fund.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees of the Funds with respect to the Selective Pricing System will be set forth in guidelines which will be furnished to the Trustees.

12. Each Fund will disclose in its prospectus the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads and exchange privileges applicable to each class of shares offered through the prospectus. Class A and Class B shares will be offered and sold through a single prospectus (Class A, B and C shares in the case of the Freedom Money Market Fund will be included in a single prospectus). If Class C shares of a Fund are offered solely via a separate prospectus, the prospectus for the Class A and Class B shares of that Fund will identify the existence of the Class C shares of the Funds and will identify the entities eligible to purchase such shares, and the Class C prospectus will identify the existence of the Fund's Class A and Class B shares. The shareholder reports of each Fund will disclose the respective expenses and performance data applicable to each class of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to Class A or B shares, it will disclose the expenses and/or performance data applicable to both classes. Advertising materials reflecting the expenses or performance data for Class C shares will be available only to Class C eligible investors. The information provided by applicants for publication in any newspaper or similar listing of the Funds' net asset value and public offering prices will separately present Class A and Class B shares.

13. The Applicants acknowledge that the grant of the exemptive order requested by this application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Funds may make pursuant to rule 12b-1 distribution plans in reliance on the exemptive order.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-26369 Filed 10-31-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18379; 813-86]

Smith Barney L.P. ESC-1 and Smith Barney Investment, Inc.; Notice of Application

October 25, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act")

APPLICANTS: Smith Barney L.P. ESC-1, a limited partnership organized under the laws of the State of Delaware (the "Initial Partnership") and Smith Barney Investment, Inc., a Delaware corporation that is the general partner of the Initial Partnership (the "General Partner").

RELEVANT 1940 ACT SECTIONS: Applicants seek an order under section 6(b) granting an exemption from all provisions of the 1940 Act except sections 7, 8(a), and 9, certain provisions of section 17, sections 36 through 53, and the rules and regulations related to those sections.

SUMMARY OF APPLICATION: Applicants seek an order that would grant the Initial Partnership, subsequently-formed limited partnerships, and the General Partner of such partnerships an exemption from most provisions of the 1940 Act, and would permit certain affiliated and joint transactions. Each such limited partnership will be an employees' securities company within the meaning of section 2(a)(13) of the 1940 Act.

FILING DATES: The application was filed on March 7, 1989 and amended on September 20, 1989, May 15, 1991, and September 16, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 20, 1991, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272-3035, or Jeremy N. Rubenstein, Assistant Director, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application maybe obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The General Partner and Smith Barney, Harris Upham & Co. Incorporated ("Smith Barney") are subsidiaries of Smith Barney Inc. Smith Barney is a broker-dealer registered under the Securities Exchange Act of 1934 as well as an investment adviser registered under the Investment Advisers Act of 1940 (the "Advisers Act"). Smith Barney offers a range of investment services to domestic and foreign corporations, governments and individual investors, and is an indirect wholly-owned subsidiary of Primerica Corporation ("Primerica"). Primerica is a financial services holding company engaged, through its subsidiaries, in the

businesses of consumer finance, insurance, specialty retailing and other financial services.

2. The Initial Partnership was formed by Smith Barney to enable certain employees of Smith Barney Inc., Primerica, and their subsidiaries to benefit from investment opportunities that come to Smith Barney's attention. In the future, Smith Barney intends to form limited partnerships identical in all material respects to the Initial Partnership (the "Subsequent Partnerships") at least annually for that purpose. The Initial Partnership and the Subsequent Partnerships (the "Partnerships") will operate as "employees' securities companies" within the meaning of section 2(a)(13) of the 1940 Act, and each will be registered as a closed-end, non-diversified management investment company under the 1940 Act. In general, each Partnership will have a ten year term. The General Partner or another subsidiary of Smith Barney Inc. will serve as general partner of a Subsequent Partnership, and any such General Partner will comply with the obligations of the General Partner described in the application. The affairs of each Partnership will be governed by a limited partnership agreement ("Partnership Agreement") executed by the General Partner and each limited partner investing in a Partnership (a "Limited Partner"). Smith Barney will bear the costs of organizing the Partnerships.

3. Units of interest in a Partnership ("Units") will be offered only to employees satisfying the financial and sophistication standards discussed below ("Eligible Employees"). An Eligible Employee must be an "accredited investor" within the meaning of section 501(a)(6) of Regulation D under the Securities Act of 1933 (a "501(a)(6) Accredited Investor"). Moreover, an employee of Primerica or any of its subsidiaries other than Smith Barney may invest in a Partnership only if, in addition, the General Partner reasonably believes that the employee has sufficient knowledge, sophistication and experience in business and financial matters to be capable of evaluating the merits and risks of such investment, and that the employee is able to bear the economic risk of his or her investment. The Partnerships will sell Units in reliance on the exemption from registration provided in section 4(2) of the Securities Act of 1933 (the "1933 Act") or Regulation D thereunder. No fee of any kind will be charged in connection with the sale of Units.

4. In addition to being experienced professionals in the investment banking, consumer lending, insurance, financial services or securities businesses, or in administrative, financial, legal or operational activities related thereto, Eligible Employees will be sophisticated investors able to fend for themselves without the benefit of regulatory safeguards. In addition, Eligible Employees will have direct access to the Smith Barney employees serving as directors or officers of the General Partner.

5. Each Unit of a Partnership will represent a capital contribution of $5,000. Each Limited Partner must purchase at least 2 Units, but may purchase no more than 20 Units. In general, Units will be purchased for cash, although Subsequent Partnerships may allow Limited Partners to pay periodically over time through "capital calls." If a Limited Partner is permitted to make a capital contribution through capital calls and fails to meet a required call, the General Partner would, as soon as practicable, but in no event later than 60 days following the failure of the Limited Partner to meet such a call, purchase from its own funds for its own account, cause to be purchased by the Partnership from the Partnership's funds for the Partnership's account, or permit an affiliate of the General Partner or a designated Eligible Employee to purchase, the Limited Partner's Units. The purchase price of the Limited Partner's Units would equal the lesser of (a) the Limited Partner's unrecovered capital contribution, or (b) the amount the Limited Partner would have received had the Partnership been liquidated pursuant to the Partnership Agreement on the "Appraisal Date" (as defined in the application) immediately preceding the failure of the call. Payment to the Limited Partner would be made, at the sole discretion of the General Partner, in the form of cash or a note with a term not to exceed three years, which note would bear interest at no less than the General Partner's "Cost of Funds." The General Partner's "Cost of Funds" is defined as the lower of (a) the prime commercial lending rate set by Morgan Guaranty Trust Company of New York or (b) Primerica's "effective cost of borrowing," defined as the average effective consolidated borrowing costs for commercial paper, bank loan and other short term borrowings, computed on a monthly basis (borrowing costs to include actual interest expense and nominal directly related administrative expenses, such as fees for back-up lines of credit and commercial paper issuance expenses).

6. The General Partner or an affiliate may purchase Units of a Partnership to be offered to employees joining Smith Barney or Primerica after the initial offering of that Partnership's Units has closed. Such Units will be acquired for cash at the same time and at the same price as Units purchased by the Limited Partners of that Partnership, and will be voted by the General Partner in proportion to the votes of the other Limited Partners. The General Partner may sell those Units at any time during the life of the Partnership at a price equal to the net asset value of the Units on the next "Appraisal Date" after the date of sale.

7. A Limited Partner may transfer his or her Units only with the express consent of the General Partner, and any such transfer must be made either to someone within the Limited Partner's immediate family, to one or more Eligible Employees, or to the General Partner or its affiliate or assignee. The General Partner, its affiliate or the Partnership may acquire the Units of a Limited Partner who has terminated employment, retired or died. In general, the purchase price for such Units would equal the amount that the Limited Partner would have received had the Partnership been liquidated. However, the purchase price of Units of a Limited Partner who terminates employment voluntarily and has owned his or her Units for two years or less would be determined according to the formula set out in paragraph 5 above (*i.e.*, the lesser of the Limited Partner's unrecovered capital contribution or the liquidation value). Partnership Units will be valued semi-annually. Any payment on termination of a Limited Partner's interest may be made in cash or by a note with a term not to exceed three years and bearing interest at a rate no less than the General Partner's Cost of Funds.

8. The General Partner will be solely responsible for managing the Partnerships. The General Partner's directors and executive officers (other than the secretary of the General Partner) will be senior officers of Smith Barney, and will be required to invest in any one or more of the Partnerships. The General Partner may be removed by a vote of two-thirds of the Units then outstanding. Upon the removal or resignation of the General Partner, the Limited Partners may appoint a new General Partner. Any General Partner of a Partnership will register as an investment adviser under the Advisers Act.

9. The Partnerships will not compensate the General Partner for the

services it provides, although they will reimburse the General Partner for its out-of-pocket expenses, nor will the Partnerships compensate the directors and officers of the General Partner for their services to the General Partner, apart from reimbursing their reasonable and necessary out-of-pocket expenses.

10. The General Partner will contribute capital to each Partnership in the form of cash or a note in an amount equal to three times the aggregate amount of capital contributed by the Limited Partners of that Partnership. With respect to a Subsequent Partnership that permits capital contributions to be made through capital calls, the General Partner's obligation to contribute capital would be based on capital actually contributed, and not on the amount of anticipated capital calls. The note used for the capital contribution will be a noninterest-bearing demand note issued by the General Partner (the "Note"), which will be drawn on as funds are needed to make Partnership investments (other than short-term, temporary investments). The General Partner will be entitled to a cumulative return on the unrecovered cash portion of its capital contribution that will be based on its Cost of Funds with respect to, and expenses incurred in connection with, such amount (the "Return"). As used in the application, the General Partner's unrecovered cash capital contribution (the "Unrecovered Cash Capital Contribution") is the sum of the cash contributed directly by the General Partner and the cash drawn on the Note but not yet repaid to the General Partner. The Return will be allocable annually out of Partnership profits, and will be payable to the General Partner only when profits are realized by the Partnership. Consequently, a Partnership's unrealized capital gains are ignored in calculating the Return.

11. The Partnerships may have different investment objectives. For example, some of the Partnerships may seek capital appreciation by investing in securities associated with leveraged buy-outs (including bridge loans in connection with such buy-outs), venture capital investments, and other high risk securities. Although a Partnership may invest up to 50% of its assets in temporary bridge loans, a Partnership otherwise will not devote more than 25% of its assets to any one investment. Different limits will apply to a Partnership's acquisition of investment company securities. A Partnership will not invest more than 15% of its assets in securities issued by investment companies (although this limit does not apply to temporary investments in money market funds distributed and managed by Smith Barney or an affiliate). However, in compliance with Section 12(d)(1)(A)(i) of the 1940 Act, a Partnership will not purchase or otherwise acquire any security issued by another investment company if immediately after such purchase or acquisition, the Partnership owns in the aggregate more than 3% of the total outstanding voting stock of such investment company.

12. Smith Barney and Smith Barney affiliates may receive various forms of compensation, such as investment banking fees for services rendered to companies in which a Partnership invests. Such fees will be paid by the companies in which the Partnership invests, rather than by the Partnership. However, a Partnership may reimburse Smith Barney or its affiliate for their actual costs in disposing of Partnership investments.

13. A Partnership's profits from both temporary and long-term investments will be allocated in the following manner: (a) first to the General Partner in the amount necessary to bring its capital account to an amount equal to the Unrecovered Cash Capital Contribution; (b) then to the Limited Partners in the amount necessary to bring their capital accounts to an amount equal to their unrecovered capital contributions; (c) then to the General Partner to the extent of the cumulative Return; (d) then 90% of the remaining profits to the Limited Partner's and 10% of such profits to the General Partner until the internal rate of return on the aggregate of the General Partner's and Limited Partners' capital contributions equals 25% through the date of measurement as determined by the General Partner; (e) then 70% of the remaining profits to the Limited Partners and 30% of such profits to the General Partner until the internal rate of return on the aggregate of the General Partner's and Limited Partners' capital contributions equals 50%; and (f) any remaining profits will be divided equally between the General Partner and the Limited Partners. The internal rate of return will be computed on a semi-annual, compounded, cumulative basis taking into account all the cumulative net profits (other than the Return) derived from the Partnership's operations and investments. Losses of a Partnership, including losses from the investment of Partnership funds in temporary investments, will follow previous allocations of profit dollar for dollar up to the same amount as an equal amount of profits had been allocated. If there are excess losses to be allocated, after losses have been allocated in an amount equal to profits previously allocated, such excess will be allocated 90% to the Limited Partners and 10% to the General Partner. If no profits have been allocated prior to the losses being incurred, the losses will be allocated 90% to the Limited Partners and 10% to the General Partner. However, in no event will the capital accounts of the Limited Partners be reduced below zero, and any additional losses will be allocated to the General Partner. According to Applicants, the foregoing allocation of profits and losses would compensate the General Partner for the risks to the capital it invests in each Partnership, and for foregoing other investment opportunities.

14. Distributions of Partnership profits will be made at the time and in the amounts determined by the General Partner. The General Partner will make distribution payments in the following priority: (a) to the General Partner for its Return; (b) to each Limited Partner in the amount needed to cover his or her income tax liability for Partnership income; (c) to the General Partner for its Unrecovered Cash Capital Contribution; (d) to the Limited Partners for their unrecovered capital contributions; and (e) to the General Partner and Limited Partners in proportion to their capital account balances.

15. A Partnership will send an annual report to each of its Limited Partners containing financial statements that have been audited by an independent certified public accountant. In addition, each Limited Partner will be furnished with federal income tax data concerning his or her investment.

Applicants' Legal Analysis

1. Applicants request exemption from all provisions of the 1940 Act except Sections 7, 8(a), and 9, certain provisions of Sections 17(f) and 17(g),[1] Sections 36 through 53, and the rules and regulations related to those sections. In addition, Applicants would remain subject to sections 17(a) and 17(d) and rule 17d–1 with respect to affiliated transactions not described in the application.

2. Section 17(a) of the 1940 Act prohibits an affiliated person of a registered investment company and certain other entities from engaging in

[1] Applicants would comply with Rule 17f–1 (except for that rule's requirement that the custody agreement be in writing and be transmitted to the Commission) and with Rule 17g–1 (except for that rule's requirement that a majority of directors who are not "interested persons" take certain actions concerning the investment company's fidelity bond).

purchases or sales of securities or other property with the investment company, and from borrowing money or other property from the investment company. Applicants request an exemption from section 17(a) of the 1940 Act to the extent necessary to permit a Partnership (a) to purchase from Smith Barney, or from a Smith Barney affiliate, securities or interests in properties previously acquired for the account of Smith Barney or the Smith Barney affiliate; (b) to sell to Smith Barney or Smith Barney affiliates securities or interests in properties previously acquired by the Partnership; (c) to invest in companies, partnerships or other investment vehicles offered, sponsored or managed by Smith Barney or by a Smith Barney affiliate (referred to hereinafter collectively as "SBHU Sponsored Vehicles" and individually as an "SBHU Sponsored Vehicle"), or to purchase securities from SBHU Sponsored Vehicles, except that the Applicants will not invest more than 15% of the assets of the Partnership in SBHU Sponsored Vehicles (except that bridge financing in SBHU Sponsored Vehicles will be limited to 50% of the assets of the Partnership); (d) to invest in securities of, or to lend money to entities with which Smith Barney or its affiliates have performed investment banking or other services and from which they may have received fees; (e) to purchase interests in or lend money to a company or other investment vehicle (i) in which Smith Barney or Smith Barney affiliates or their respective employees own 5% or more of the voting securities or (ii) that is otherwise affiliated with the Partnership or Smith Barney; (f) to purchase securities that are underwritten by Smith Barney or by a Smith Barney affiliate (including as member of a selling group) on terms at least as favorable to the Partnership as those offered to investors other than "affiliated persons" (as defined in the 1940 Act) of Smith Barney; and (g) to participate as a selling securityholder in a public offering (i) that is underwritten by Smith Barney or by a Smith Barney affiliate or (ii) in which Smith Barney or a Smith Barney affiliate acts as a member of the selling group. Applicants also request an exemption from section 17(a) to permit each Partnership (a) to invest in money market funds managed or underwritten by Smith Barney or Smith Barney affiliates; (b) to purchase short-term instruments from, or sell such instruments to, Smith Barney or Smith Barney affiliates at market value; or (c) to enter into repurchase transactions with Smith Barney pending investment of a Partnership's liquid funds. A Partnership would pay no fee in connection with the purchase of a short-term instrument from Smith Barney or from a Smith Barney affiliate. In addition, any assets of a Partnership invested in a money market fund managed by a Smith Barney affiliate would be subject to the same fees as those charged to and paid by persons unaffiliated with Smith Barney investing in the fund. According to the Applicants, Smith Barney affiliated money market funds do not have sales loads, redemption fees, or rule 12b–1 fees.

3. Section 17(d) of the 1940 Act and Rule 17d–1 thereunder provide generally that it is unlawful for any affiliated person of a registered investment company and certain other entities, acting as principal, to effect any transaction in which the investment company is a joint or a joint and several participant with such person or entities. Applicants request an exemption from section 17(d) and Rule 17d–1 to allow a Partnership to invest in an entity in which a Partnership, Smith Barney, any "affiliated person" (as defined in the 1940 Act) of the Partnership, or an "affiliated person" of such person is a participant or plans concurrently or otherwise directly or indirectly to become a participant. Joint transactions in which a Partnership could participate include the following: (a) An investment by one or more Partnerships in a non-SBHU Sponsored Vehicle (i) in which Smith Barney, a Smith Barney affiliate or an "affiliated person" thereof, an SBHU Sponsored Vehicle, an employee, officer or director of the General Partner or transferees of the aforementioned who agree to be bound by the applicable representations of the application (referred to hereinafter collectively as "Affiliates" and individually as an "Affiliate") is a participant or plans to become a participant and/or (ii) with respect to which Smith Barney or a Smith Barney affiliate is entitled to receive placement fees, investment banking fees, brokerage commissions, or other economic benefits or interests; (b) an investment by one or more Partnerships in an SBHU Sponsored Vehicle; and (c) an investment by one or more Partnerships in an SBHU Sponsored Vehicle in which an Affiliate is a participant or plans to become a participant, including situations in which an Affiliate has a partnership or other interest in, or compensation arrangement with, the SBHU Sponsored Vehicle. Applicants agree that any investments by a Partnership made concurrently with a "Co-Investor" (as defined in the application) would be made by the Partnership on the same basis (*i.e.*, on the same terms, but not necessarily in the same amount) as the investment by the Co-Investor.

4. Applicants assert that absent relief from section 17(d) and rule 17d–1, a Partnership could be barred from many attractive investments in which an affiliated person has invested or intends to invest. According to the Applicants, the relief they seek is consistent with the premise that an investment company must not participate in a joint arrangement on a basis different from, or less advantageous than, that of the affiliated person. Applicants would comply with the conditions set out below in connection with their transactions under sections 17(a) and 17(d).

5. Each Partnership will be an "employees' securities company" as that term is defined in section 2(a)(13) of the 1940 Act. Under section 6(b) of the 1940 Act, the Commission is required, upon application, to exempt an employees' securities company if and to the extent that the exemption is consistent with the protection of investors. Applicants contend that in light of the criteria for evaluating such applications set out in Section 6 (b), the Commission should grant the requested exemption.

6. Applicants assert that the protections created by the 1940 Act are generally unnecessary with respect to the Partnerships in light of (a) the community of economic and other interests among the Limited Partners, the General Partner, Smith Barney, and Primerica; (b) Smith Barney's substantial investment in the Partnerships (in the form of the General Partner's capital contributions); (c) the concern of Smith Barney Inc. and Primerica for the morale of their key employees; and (d) the financial status and sophistication of the Eligible Employees. Each Eligible Employee will meet the financial qualifications set out in section 501(a)(6) of Regulation D under the 1933 Act. Section 501(a)(6) currently categorizes as an accredited investor any natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year.

7. Applicants further submit that the Partnerships will be organized and managed by persons investing in them, and will not be promoted by persons seeking to profit from fees for investment advice or distribution of securities. Accordingly, Applicants assert that the abuses contemplated by

the 1940 Act are unlikely to arise with respect to the Partnerships.

Applicants' Conditions

Applicants will comply with the following conditions if the requested order is granted:

1. As a condition to the relief requested from section 17(d) and rule 17d–1, the General Partner will not invest the funds of any Partnership in a joint transaction with an Affiliate other than employees of Smith Barney and its affiliates who are not employees, officers, or directors of the General Partner (the "Co-Investors") unless, at the time of investment (a) the amount invested by all Co-Investors in the joint transaction is at least equal to the amount invested by the Partnership and (b) the General Partner obtains from Co-Investors investing in the aggregate an amount at least equal to the amount invested by the Partnership in such transaction an undertaking to maintain their investment in an amount at least equal to the investment of the Partnership in the joint investment; provided that any such Co-Investor may dispose of all or part of its investment if (i) it gives the General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment in the joint investment, and (ii) it refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment in the joint investment prior to or concurrently with, and on the same terms as, the Co-Investor. Notwithstanding the foregoing, a joint investment may be made in an instance in which the amount of the Co-Investors' investment is less than the amount invested by a Partnership so long as all joint investments by such Partnership and Co-Investors who give the undertaking referred to in the preceding sentence, including any investment by Co-Investors in an amount less than that made by such Partnership, will in the aggregate satisfy the undertaking that the amount invested by all Co-Investors will be at least equal to the total amount invested by such Partnership.

In addition, a joint investment in which the only Co-Investors are SBHU Sponsored Vehicles may be made, regardless of whether the amount of investment by the SBHU Sponsored Vehicles will be equal to the amount invested by the Partnership, if the amounts available for investment by the SBHU Sponsored Vehicles (either because the SBHU Sponsored Vehicles do not have sufficient funds remaining to make such investment, or the specific, pre-existing investment criteria of the SBHU Sponsored Vehicles do not permit such investment to the extent that would otherwise be required to permit joint investment hereunder) are less than the greater of (i) $ 2 million or (ii) 25% of the total size of the investment opportunity being considered; provided that in each such instance the General Partner will obtain from the SBHU Sponsored Vehicles the undertakings described above. Any amount invested by the SBHU Sponsored Vehicles in such investment would be aggregated with other joint investments made by Co-Investors with such Partnership for purposes of any calculation required hereunder. In the event that the Partnership does invest in a joint investment with SBHU Sponsored Vehicles as set forth in this condition, the Partnership would limit its investment in any one entity to an amount no greater than 25% of the aggregate capital of the Partnership.

2. As a further condition to the relief from section 17(d) and rule 17d–1, Applicants agree that officers and directors of the General Partner will review each proposed joint transaction to determine whether or not the investment by the Co-Investor would disadvantage the Partnership in making its investment, in maintaining its investment position or in disposing of its position. The minutes of the meetings of the Board of Directors of the General Partner, including all procedures adopted by the General Partner in connection with its evaluation of such joint transactions, will be made available for inspection by the Limited Partners and by the Commission.

3. The Partnerships' proposed transactions under section 17(a) or section 17(d) and Rule 17d–1 (the "section 17 Transactions") will be effected in compliance with section 57(f) of the 1940 Act as if the Partnerships were business development companies (except to the extent that section 57(o) of the 1940 Act requires action by a majority of directors with no financial interest), in that the General Partner will determine that:

a. The terms of each transaction, including the consideration to be paid or received, are fair and reasonable to the Limited Partners and do not involve overreaching of the Partnership or its Limited Partners on the part of any person concerned; and

b. The transaction is consistent with the interests of the Limited Partners and with the Partnership's reports to its Limited Partners.

In addition, the General Partner will record in its minutes and preserve in its records a description of such affiliated transactions, its findings, and the information or materials upon which its findings are based. All such records will be maintained for the life of the Partnership and at least six years thereafter, and will be subject to examination by the Commission and its staff.

4. In connection with the section 17 Transactions, the General Partner will comply with section 57(h) of the 1940 Act as if the Partnerships were business development companies, and will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made prior to the consummation of any such transaction.

5. The Partnerships and the General Partner will maintain and preserve, for the life of the Partnership and at least six years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements that are to be provided to the Limited Partners, and agree that all such records will be subject to examination by the Commission and its staff.

6. As a condition to the issuance of any Partnership interests to Limited Partners, the General Partner and any subsequent General Partner will register as investment advisers under the Advisers Act.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26420 Filed 10–31–91; 8:45 am]

BILLING CODE 8010–01–M

[File No. 81–895]

Application and Opportunity for Hearing: Western Air Lines, Inc. Pilots Variable Pension Plan Liquidating Trust

October 25, 1991.

Notice is hereby given that the Western Air Lines, Inc. Pilots Variable Pension Plan Liquidating Trust has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order of exemption from the registration requirements of section 12(g) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application, as amended, which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person, not later than November 20, 1991, may submit to the Commission in writing the person's views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such

communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which the person desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26375 Filed 10–31–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–91–39]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 25, 1991.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9704.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 28, 1991.

Deborah Swank,

Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 25934.
Petitioner: Bill Morse Seaplane Service.
Sections of the FAR Affected: 14 CFR 135.243(b)(3).
Description of Relief Sought: To extend Exemption No. 5137 which allows the petitioner to serve as pilot-in-command in day visual flight rule conditions without having an instrument rating.

Docket No.: 26618.
Petitioner: American Airlines.
Sections of the FAR Affected: 14 CFR 121.359(e).
Description of Relief Sought: To allow American Airlines to operate twelve MD82/83 aircraft manufactured after October 11, 1991, without being equipped with the required boom microphone hookup which is connected to the cockpit voice recorder.

Docket No.: 26644.
Petitioner: Miami Flight Training Academy, Inc.
Sections of the FAR Affected: 14 CFR 61.56(b)(1), 61.57(c), 61.57(d), 61.58(c)(1), 61.58(d), 61.63(d)(2), 61.63(d)(3), 61.67(d)(2), 61.157(d)(1), 61.157(d)(2), 61.157(e)(1), and 61.157(e)(1), and appendix A of part 61 and appendix H of part 121.
Description of Relief Sought: To allow Miami Flight Training Academy, Inc. to accomplish flight training and checking in FAA-approved aircraft simulators instead of airplanes in flight, and to use well-qualified flight and ground instructors in its training operation who do not meet the requirements of § 121.407 of the FAR.

Docket No.: 26657.
Petitioner: Omniflight Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 43.3(h).
Description of Relief Sought: To allow Omniflight Helicopters, Inc. appropriately trained and certificated pilots to perform daily engine rinses on BO–105LSA3 helicopters equipped with the Allison C–28C–250 engine.

Dispositions of Petitions

Docket No.: 23495.
Petitioner: U.S. Army Aeronautical Services Agency.
Sections of the FAR Affected: 14 CFR 91.209 (a) and (b).
Description of Relief Sought/ Disposition: To extend Exemption No. 3946B which allows the U.S. Army to conduct certain night flight military training operations without lighted aircraft position lights.
Grant, October 18, 1991, Exemption No. 3946C

Docket No.: 25030.
Petitioner: Pan Am Express, Inc.
Sections of the FAR Affected: 14 CFR 93.123 and 93.129.
Description of Relief Sought/ Disposition: To extend the provisions of Exemption No. 4777E for relief from the provisions of §§ 93.123 and 93.129 of the Federal Aviation Regulations. Under that exemption, Pan Am Express, Inc., is authorized to conduct 10 operations during 4 of the 5 high-density hours at the John F. Kennedy International Airport (JFK).
Grant, October 10, 1991, Exemption No. 4777F

Docket No.: 26117.
Petitioner: United Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.621(a)(1) (i), (ii) and (iii).
Description of Relief Sought/ Disposition: To permit UAL to comply with Australian Civil Aviation Authority Regulations Aeronautical Information Publication (AIP), Sections 1.2.1, 1.2.3, 1.2.4, 1.2.4.1, 1.2.5, 1.2.6, 1.2.7, and 1.2.8 instead of complying with §§ 121.621(a)(1) (i), (ii), and (iii) of the FAR regarding when an alternate airport is required for a destination airport.
Denial, October 15, 1991, Exemption No. 5356

Docket No.: 26470.
Petitioner: Harry E. McClure.
Sections of the FAR Affected: 14 CFR 21.323(b).
Description of Relief Sought/ Disposition: To allow the petitioner and his employees to issue U S. export

airworthiness approvals for Class III products to persons or companies other than manufacturers with production approvals.

Denial, October 11, 1991, Exemption No. 5355

Docket No.: 26474.

Petitioner: Deere & Company.

Sections of the FAR Affected: 14 CFR 21.197(a)(1).

Description of Relief Sought/ Disposition: To allow Deere & Company to operate its Cessna Model CE–650 aircraft, N400JD, serial number 650–0035, without obtaining a special flight permit when the flaps fail in the up position.

Grants, October 10, 1991, Exemption No. 5348

Docket No.: 26527.

Petitioner: James F. Young.

Sections of the FAR Affected: 14 CFR 47.15(b).

Description of Relief Sought/ Disposition: To allow petitioner to obtain special registration marks for his home built aircraft.

Denial October 3, 1991, Exemption No. 5343

Docket No.: 26627.

Petitioner: Air Transport Association.

Sections of the FAR Affected: 14 CFR 121.343 (c), (e), and (f).

Description of Relief Sought/ Disposition: To extend the compliance date for ATA member airlines, and similarly situated non-member airlines, to install approved flight recorders that utilize a digital method of recording, storing, and retrieving data.

Partial Grant October 11, 1991, Exemption No. 5350

Docket No.: 26634.

Petitioner: Extraordin-Air, Inc.

Sections of the FAR Affected: 14 CFR 91.609(d) and 135.151(a).

Description of Relief Sought/ Disposition: To permit Extraordin-Air, Inc. to operate multi-engine turbine powered airplanes or rotorcraft with seating configuration of six or more passengers and for which two pilots are required without those aircraft being equipped after October 11, 1991 with an approved cockpit voice recorder.

Denial October 11, 1991, Exemption No. 5353

Docket No.: 26650.

Petitioner: Samoa Air.

Sections of the FAR Affected: 14 CFR 135.151.

Description of Relief Sought/ Disposition: To permit Samoa Air to operate one DHC–6–200, one DHC–6–300, and one Beechcraft A–100 airplane after October 11, 1991 without those airplanes being equipped with an approved cockpit voice recorder.

Denial October 10, 1991, Exemption No. 5349

Docket No.: 26652.

Petitioner: LAPSA Airline.

Sections of the FAR Affected: 14 CFR 135.151 and 135.152.

Description of Relief Sought/ Disposition: To permit LAPSA Airline to operate a Shorts 330 (SD–330) airplane without being equipped with an approved cockpit voice recorder and without an approved flight data recorder.

Denial October 11, 1991, Exemption No. 5351

Docket No.: 26672.

Petitioner: National Air Transportation Association.

Sections of the FAR Affected: 14 CFR 135.151(a).

Description of Relief Sought/ Disposition: To permit nonscheduled member airlines of the National Air Transportation Association to operate multiengine, turbojet airplanes having a passenger seating configuration of ten or more and on which a cockpit voice recorder has been installed prior to October 11, 1988, without these aircraft being equipped to record the uninterrupted audio signals received by a boom or mask microphone that is installed in compliance with § 25.1457(c)(5).

Grant October 11, 1991, Exemption No. 5354

[FR Doc. 91–26403 Filed 10–31–91; 8:45 am]

BILLING CODE 4910–13–M

Air Carrier/General Aviation Maintenance Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee Air Carrier/General Aviation Maintenance Subcommittee.

DATES: The meeting will be held on December 4, 1991, at 9 a.m. Arrange for oral presentations by November 20, 1991.

ADDRESSES: The meeting will be held at L'Enfant Plaza Hotel, 490 E. Building, Conference room 3A, L'Enfant Plaza SW., Washington, DC, at 9 a.m.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Renaud, Meeting Coordinator, Aircraft Maintenance Division, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–7461.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Air Carrier/General Aviation Maintenance Subcommittee to be held on December 4, 1991. The agenda for the meeting will include reports from the working groups dealing with establishment of current standard weights for passengers and baggage, development of a notice of proposed rulemaking (NPRM) for part 65 of the Federal Aviation Regulations (FAR), development of an NPRM for reporting requirements of §§ 121.703 and 121.705 of the FAR, development of an advisory circular for Special Federal Aviation Regulation (SFAR) 36, and development of an NPRM and advisory circular for maintenance recordkeeping and retention of records.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements on or before November 20, 1991, to present oral statements at the meeting. Written statements (75 copies) may be presented to the committee at any time through the meeting coordinator. Arrangements may be made by contacting the meeting coordinator listed under the heading **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, DC, on October 28, 1991.

William J. White,

Executive Director, Air Carrier/General Aviation Maintenance Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 91–26404 Filed 10–31–91; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting (1) to exchange views on proposals submitted to the fifth session of the United Nations' Sub-Committee of Experts on the Transport of Dangerous Goods, and (2) to report the results of the thirteenth session of the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel (DGP).

DATES: November 21, 1991 at 9:30 a.m.

ADDRESSES: Room 9230, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Transportation, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: This meeting will be held in preparation for the fifth session of the Sub-Committee of Experts on the Transport of Dangerous Goods to be held December 2 to 13, 1991, in Geneva. During this meeting the U.S. position on proposals submitted to the fifth session of the Sub-Committee will be discussed. Topics to be covered include classification criteria for corrosive substances, test criteria to determine the ability of flammable liquids to sustain burning, classification criteria for lithium batteries, requirements for molten (or elevated temperature) materials, criteria for distinguishing between liquids and solids, requirements for Class 9 substances (miscellaneous dangerous goods), requirements for overpacks, freight container packing certificate requirements, requirements for multimodal tanks, requirements for intermediate bulk containers used to transport packing group I substances, classification of specific dangerous goods and other proposed amendments to the United Nations Recommendations on the Transport of Dangerous Goods.

A second purpose for the meeting will be to review the results of the thirteenth session (October 15–25, 1991 in Montreal, Canada) of the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel (DGP). Agreed amendments to the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air will be discussed.

The public is invited to attend without prior notification.

Documents

Copies of documents submitted to the fifth session of the UN Sub-Committee meeting and, when available, a copy of the ICAO DGP report may be obtained from RSPA for a nominal fee. A listing of these documents is available on the Hazardous Materials Information Exchange (HMIX), RSPA's computer bulletin Board. Documents may be ordered by filling out an on-line request form on the HMIX or by contacting RSPA's Dockets Unit (202–366–4453). For more information on the use of the HMIX system, contact the HMIX information center; 1–800–PLANFOR (752–6367); in Illinois, 1–800–367–9592; Monday through Friday, 8:30 a.m. to 5 p.m. Central time.

After the meeting, a summary of the public meeting will also be available from Hazardous Materials Advisory Council, suite 250, 1110 Vermont Ave., NW., Washington, DC 20005; telephone number (202) 728–1460.

Issued in Washington, DC, on October 28, 1991

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 91–26405 Filed 10–31–91; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 28, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0023.

Form Number: IRS Form 720.

Type of Review: Revision.

Title: Quarterly Federal Excise Tax Return.

Description: Form 720 is used to report excise taxes due from retailers and manufacturers on the sale or manufacture of various articles, to report taxes on facilities and services, and taxes on certain products and commodities (gasoline and vaccines, etc.). It enables IRS to monitor excise tax liability for various categories on a single form and to collect the tax quarterly in compliance with the law and regulations (IRC section 6011).

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/ Recordkeepers: 360,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning	Preparing
720	13 hrs., 23 min.	1 hr., 28 min.	6 hrs., 33 min.
Sched. A	2 hrs., 9 min.	-0-	3 min.

Frequency of Response: Quarterly.

Estimated Total Reporting/Reporting Burden: 8,323,200 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91–26414 Filed 10–31–91; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

October 28, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by

calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: New.
Form Number: PD F 2066
Type of Review: New collection.
Title: Application by Survivors for Payment of Bond or Check Issued under the Armed Forces Leave Act of 1946, as Amended.
Description: The form serves as an application by survivors for payment of a bond or check issued under the Armed Forces Leave Act of 1946 to veterans of World War II. The veteran would have died before he or she received the proceeds.
Respondents: Individuals or households.
Estimated Number of Respondents: 400.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 200 hours.
OMB Number: New.
Form Number: PD F 2481.
Type of Review: New collection.
Title: Application for Recognition as Natural Guardian of a Minor Not under Legal Guardianship and for Disposition of Minor's Interest in Registered Securities.
Description: The form is executed by individuals to certify that they are the natural guardians of a specific minor not under legal guardianship. The situation involves Government Securities erroneously registered in the name of that minor. The alleged natural guardians request appropriate disposition of the securities.
Respondents: Individuals or households.
Estimated Number of Respondents: 25.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 13 hours.
OMB Number: New.
Form Number: PD F 3905.
Type of Review: New collection.
Title: Request for Securities Transaction.
Description: This form is used to request a transaction involving securities such as redemption, exchange, or transfer. The person executing the form furnishes specific instructions concerning the transaction.
Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 7,000.
Estimated Burden Hours Per Response: 12 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1,400 hours.
OMB Number: New.
Form Number: PD F 4222.
Type of Review: New Collection.
Title: Bond of Indemnity Without Surety.
Description: The form is used by an official of an organization to certify that an error was made in the issuance or registration of Government Securities. The official requests proper disposition and certifies that the organization will reimburse the U.S.A. if a claim arises as a result of the transaction.
Respondents: Businesses or other for-profit, Small business or organizations.
Estimated Number or Respondents: 50.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 25 hours.
OMB Number: 1535–0042.
Form Number: PD F 2216.
Type of Review: Reinstatement.
Title: Application by Preferred Creditor For Disposition Without Administration Where Deceased Owner's Estimate Includes United States Savings Bonds/Notes and/or Related Checks in an Amount Not Exceeding $1,000 (Face Amount).
Description: This form is used by a preferred creditor of a decedent's estate to request payment of savings bonds/notes and/or related checks not exceeding $500 when estate is not being administered.
Respondents: Individuals or households, Business or other for-profit.
Estimated Number or Respondents: 5,000.
Estimated Burden Hours Per Response: 10 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 835 hours.
Clearance Officer: Rita DeNagy (202) 447–1315, Bureau of the Public Debt, room 137, BEP Annex, 300 13th Street, SW., Washington, DC 20239–0001.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 91–25413 Filed 10–31–91; 8:45 am]
BILLING CODE 4810–40–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable ;(5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 2, 1991.

Dated: July 26, 1991.

By Direction of the Secretary.

B. Michael Berger,
Director, Records Management Service.

Revision

1. Student Verification of Enrollment, VA Form 22–8979.

2. This form is used by students in certifying attendance and continued enrollment in courses leading to a standard college degree and non-college degree programs. As an alternative to

the using VA Form 22–8979, VA has developed for use a toll-free telecommunications network which will allow students to enter their certification data directly into the benefits delivery system. Montgomery GI Bill students in California have been selected to test the SAVE (Student Automated Verification of Enrollment) Test Program system before it is expanded nationwide. VA plans to test this technology beginning in January of 1992.

3. Individuals or households.

4. An Estimate of the Total Annual Reporting Hours.

a. Students Using VA Form 22–8979—141,958 hours.

b. Students Participating in SAVE Test Program—1,850 hours.

5. The Estimated Average Burden Hours Per Respondent.

a. Students Using VA Form 22–8979—5 minutes.

b. Students Participating in SAVE Test Program—55 seconds.

6. On occasion; Monthly.

7. An Estimated Number of Respondents—260,500.

a. Students Using VA Form 22–8979—243,357.

b. Students Participating in SAVE Test Program—17,143.

[FR Doc. 91–26390 Filed 10–31–91; 8:45 am]
BILLING CODE 8320–01–M

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the VA (Department of Veterans Affairs) intends to conduct a recurring computer matching a program matching SSA (Social Security Administration) records of benefit recipients with VA pension and parents' dependency and indemnity compensation records.

The goal of this match is to identify VA benefit recipients who are also receiving Social Security Administration benefits payments reportable to VA as countable income.

The Department of Veterans Affairs (VA) plans to match records of veterans and surviving spouses and children who receive pension and parents who receive DIC (dependency and indemnity compensation) from VA with records of Social Security Administration Master Beneficiary Records payments maintained by the Social Security Administration (SSA). The match with SSA will provide VA with data from the SSA Master Beneficiary Record. VA will use the data to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. Currently, information about a VA beneficiary's receipt of SSA benefits is obtained from reporting by the beneficiary. The proposed matching programs will enable the VA to ensure accurate reporting of SSA benefits.

Records to be Matched: SSA as "source agency" will provide social security benefit payment information from the systems of records designated Master Beneficiary Record 09–60–0090, 51 FR 16223, May 1, 1986, which will be matched against the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 21/22) contained in the Privacy Act Issuances, 1989 compilation, Volume II, pages 918–922 and as amended at **Federal Register** 56 FR 15667. In accordance with title 5 U.S.C. subsection 552(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

The match is estimated to start December 1, 1991, but will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 30 days after copies of this Notice and the agreement of the parties is submitted to Congress and the Office of Management and Budget, whichever is later and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and, the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested individuals may comment on the proposed matches by writing to the Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Robert Yurgal (213B), (202)233–3504.

SUPPLEMENTARY INFORMATION: This information is required by title 5 U.S.C. 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: October 25, 1991.

Edward J. Derwinski

Secretary.

[FR Doc 91–26445 Filed 10–31–91; 8:45 am]
BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 56, No. 212
Friday, November 1, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

7 CFR Part 1600

RIN 0572-AA61

Meetings of the Board of Directors of the Rural Telephone Bank

Correction

In rule document 91-23231 beginning on page 49133 in the issue of Friday, September 27, 1991, make the following correction:

On page 49134, in the first column, in the heading above § 1600.1, "Meeting" should read "Meetings".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Seattle University, et al., Consolidated Decision on Applications for Duty-Free Entry of Election Microscopes

Correction

In notice document 91-25429 appearing on page 54561 in the issue of Tuesday, October 22, 1991, make the following correction:

In the third column, in the second line from the end, "applicant" should read "application".

BILLING CODE 1505-01-D

FEDERAL HOUSING FINANCE BOARD

Correction

In sunshine document 91-970 appearing on page 1443 in the issue of Monday, January 14, 1991, in the second column, in the file line at the end of the document, "FR Doc. 91-969" should read "FR Doc. 91-970".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6884

[AK-932-4214-10; AA-5964, AA-3060, AA-5934]

Withdrawal of National Forest System Lands for the Kenai River Recreation Area, the Russian River Campground Area, and the Lower Russian Lake Recreation Area; Alaska

Correction

In rule document 91-23687 beginning on page 49847 in the issue of Wednesday, October 2, 1991, make the following corrections:

1. On page 49848, in the first column, in the land description, under T.5 N., R. 4 W., unsurveyed, in Sec. 34, in the second line, "N¼SW½," should read "N½SW¼,".

2. On the same page, in the same column, in paragraph 2., in the tenth line, "period" should read "prior".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-010-00-4212-12; IDI-27201]

Realty Action; Exchange of Public and State of Idaho Lands in Washington and Adams Counties, ID

Correction

In notice document 91-23272 beginning on page 49198 in the issue of Friday, September 27, 1991, make the following corrections:

1. On page 49198:

a. In the second column, in the land description, under T.17 N., R. 5 W., in Sec. 13, "N½S¼;" should read "N½S½; " and in Sec. 23, "E½SW¼SE¼SW¼," should all be on the same line.

b. In the third column, in the land description, under T. 16 N., R. 5 W., in Sec. 5, "N½SE¼," should read "N½SW¼,".

c. In the same column, in the same land description, in Sec. 15, "NE¼NE¼ ," should read "NW¼NE¼,".

d. In the same column, in the first paragraph, in the first line, "6,221" should read "6,221.70".

e. In the same column, in the land description, under T. 15 N., R. 6 W., in Sec. 1, "SE½;" should read "SE¼;".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-02-4212-18]

Realty Action; Sale of Public Lands in Clarke County, NV

Correction

In notice document 91-24451 beginning on page 51230, in the issue of Thursday, October 10, 1991, make the following correction:

On the same page, in the second column, in Section 24, the legal description should read, "SE¼SE¼ NW¼".

BILLING CODE 1505-01-D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91-51]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

Correction

In notice document 91-13926 appearing on page 26844, in the issue of Tuesday, June 11, 1991, in the first column, in the file line at the end of the document, "FR Doc. 91-13626" should read "FR Doc. 91-13926".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-397]

Washington Public Power Supply System (Nuclear Project No. 2); Exemption

Correction

In notice document 91-7573, beginning on page 13340, in the issue of Monday, April 1, 1991, make the following correction:

On page 13341, in the third column, in the file line at the end of the document, "FR Doc. 91-7572" should read "FR Doc. 91-7573."

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 531, 550, and 575

RIN 3206-AE23

Special Pay Adjustments for Law Enforcement Officers in Selected Cities

Correction

In proposed rule document 91-25397 beginning on page 54549 in the issue of Tuesday, October 22, 1991, make the following corrections:

§ 531.302 [Corrected]

1. On page 54551, in the third column, in § 531.302, in the table, under the "Factor" heading, in the third entry from the bottom "16" should read "1.16.

§ 550.151 [Corrected]

2. On page 54553, in the second column, the section heading "§ 550.551" should read as set forth above.

§ 550.202 [Corrected]

3. On the same page, in the third column, in § 550.202, in the penultimate line "respectively but" should read "respectively; but".

§ 575.405 [Corrected]

4. On page 54554, in the second column, in § 575.405(c)(2), in the second line "5305" should read "5304".

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 771

Agency Administrative Grievance System

Correction

In proposed rule document 91-23197 beginning on page 48757 in the issue of Thursday, September 26, 1991, make the following correction:

§ 771.202 [Corrected]

On page 48761, in the second column, in § 771.202(c), in the ninth line, after "at" insert "hand. A person acting as a fact-finder, presiding officer at a".

BILLING CODE 1505-01-D

federal register

Friday
November 1, 1991

Part II

National Indian Gaming Commission

25 CFR Part 502

Definitions Under the Indian Gaming Regulatory Act; Proposed Rule and Public Hearings

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 502

Definitions Under the Indian Gaming Regulatory Act

October 25, 1991

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule.

SUMMARY: The National Indian Gaming Commission is proposing regulations to implement definitions under the Indian Gaming Regulatory Act of 1988. The effect of the rule is to provide guidance to tribes, their attorneys, enforcement personnel and others interested in Indian gaming.

DATES: Commenters must submit their comments by December 31, 1991.

ADDRESSES: Commenters may mail or deliver their comments to: Definition Rule Comments, National Indian Gaming Commission, suite 250, 1850 M Street, NW., Washington, DC 20036–5083. Comments may be delivered or inspected between 9 a.m. to noon and 2 p.m. to 5 p.m., Monday through Friday. Commenters may also fax their comments to 202–632–7066.

FOR FURTHER INFORMATION CONTACT: Mary Jane Markley at 202–632–7003.

SUPPLEMENTARY INFORMATION: These regulations implement definitions under the Indian Gaming Regulatory Act (IGRA), signed into law on October 17, 1988. The IGRA established the National Indian Gaming Commission (Commission). Under the IGRA, the Commission is charged with regulating class II gaming, and certain aspects of class III gaming.

Style

In drafting these regulations, the Commission attempted to clarify the IGRA without changing the legislative intent. Wherever possible, the Commission used concise and clear language. The goal of the Commission is to make the regulations easy to use without sacrificing precision.

Purpose

The purpose of these regulations is to provide definitions under the IGRA. Future rule makings will contain program requirements for tribal ordinances, appeals, enforcement, management contracts and self-regulation.

Indian Lands

This definition clarifies the language of the IGRA. Note, however, that Indian lands and Indian country as defined in 18 U.S.C. 1151 are not synonymous. The significance of the definition is that the IGRA applies only to gaming conducted on Indian lands.

Indian Tribe

The IGRA applies only to Indian tribes which meet this definition. The term encompasses those federally recognized tribes, bands, nations, communities (including pueblos) which possess powers of self-government. The Commission will rely on the expertise of the Interior Department with respect to which tribes are eligible for the special programs and services provided by the United States to Indians and which have powers of self-government.

House Banking Game

The significance of this definition is that it determines, in part, which games are included in class III gaming. House banking games include certain card games and casino games. House banking games differ from bingo. In bingo, the house is acting as a stakeholder, but does not have an interest in the outcome of the game. Therefore, for the purpose of these regulations bingo is not a house banking game.

Class I Gaming

The significance of this definition is that it determines which gaming is under the exclusive jurisdiction of a tribe.

Class II Gaming

The significance of this definition is that it determines which gaming is under the dual jurisdiction of the Commission and a tribe. Gaming that is not class I or class II is deemed class III gaming and must be conducted under a tribal-state compact.

The Commission has restructured the definition of class II gaming to reflect the intent of the IGRA. First, the Commission moved "lotto" from the last phrase of 25 U.S.C. 2703(7)(A)(i) to the first part of its definition of class II. The Commission is proposing adoption of the dictionary definition of lotto as synonymous with bingo.

Second, while the Commission has not attempted to define "other games similar to bingo," the Commission requests comments specifically directed to identifying games which may be considered in this category along with supporting documentation. The Commission is interested in identifying games which are similar to bingo. At the same time, "games similar to bingo" must not be games which would properly be classified as class III gaming according to the definition of that term. In the view of the Commission, games such as craps, roulette, black jack or other casino games that are played with a bingo blower instead of dice, wheels, or cards, are class III games. Also, the combining of a class III game such as craps with bingo results in a class III game.

Third, while the statute placed the parenthetical phrase "(whether or not electronic, computer, or other technologic aids are used in connection therewith)" only after "bingo" in the first subparagraph of the definition, because the Commission divided that part of the definition into two paragraphs, the Commission also placed the parenthetical phrase in the paragraph which lists pull-tabs and other games.

Fourth, the Commission moved the class II exclusion of banking card games, "electronic or electromechanical facsimiles of any game of chance" and slot machines to its proposed definition of class III. Doing so reflects Congress' intent that games not classified as class I or class II are property classified as class III. (The language in the IGRA reads: "The term 'class III gaming' means all forms of gaming that are not class I gaming or class II gaming.") (See the discussion under class III gaming below).

Fifth, with respect to grandfathered individually owned games, the Commission proposes that ownership interests of such games be the same as they were on the date of enactment, i.e., October 17, 1988. Concerning which games qualify as grandfathered games under paragraphs (4) and (5) of the proposed definition of class II gaming, the Commission invites comment.

Class III Gaming

The significance of the definition of class III gaming is that it defines the games which must be regulated under a tribal-state compact. With respect to the definition of class III gaming the Commission felt it was important to list examples of games that fall within class III rather than simply repeating the definition from the IGRA (i.e., "* * * all forms of gaming that are not class I gaming or class II gaming[ ]). Therefore, the Commission listed games which Congress specifically excluded from class II, *i.e.*, banking card games, slot machines, electronic or electromechanical facsimiles of games of chance, and games enumerated in the Senate Report to accompany S. 555 (casino games and parimutuel wagering). The Commission included in class III gaming roulette and keno as examples of casino games. Similarly, as

a further elaboration in the definition, the Commission defined house banking games and included such games in its definition of class III gaming.

An elementary principle of statutory construction is that an agency must give effect to all the terms used by Congress. *Colautti* v. *Franklin*, 439 U.S. 379 (1979). Therefore, in interpreting statutes, one cannot ignore distinctions intended by the use of distinctly different terms. In using the two terms ("electronic or electromechanical facsimiles of any game of chance" and "electronic, computer, or other technologic aids") in question, Congress intended the Commission to give effect to both. This the Commission did in proposing definitions for those terms (see below). The Commission has discussed the meaning of the two terms in meetings with representatives of various tribes and with attorneys for those tribes. In those meetings and in legal opinions, tribes and their attorneys presented the Commission with arguments which would give expansive meanings to "electronic or electromechanical facsimile." In reviewing all the arguments presented in favor of reading "aid" expansively, the Commission has accepted the view of its General Counsel that there is no sound legal rationale for accepting those arguments. In his view, reading the term "aid" expansively leaves little or no meaning to the term "facsimile." Nevertheless, the Commission solicits public comment which would classify as class II gaming those devices which may be defined as class II gaming while at the same time excluding those devices which are properly classified as class III gaming.

The Commission is mindful of the canon of construction regarding the resolution of statutory ambiguities in favor of Indians. However, the General Counsel has not found an ambiguity with respect to the use of the terms which describe allowable ("technological aid") and prohibited technology ("facsimile of any game of chance"). The General Counsel notes that, "The canon of construction regarding the resolution of ambiguities in favor of Indians, however, does not permit reliance on ambiguities that do not exist; nor does it permit disregard of the clearly expressed intent of Congress." *South Carolina* v. *Catawba Indian Tribe of South Carolina*, 491 U.S. 906 (1986).

In proposing definitions for "electronic, computer or technologic aid" and "electronic or electromechanical facsimile," the Commission relied heavily on the Senate Report accompanying S. 555. S. Rep. No. 446, 100th Cong., 2d Sess. 9 (1988). This report distinguishes between allowable technology and prohibited facsimiles. In the view of the Commission, Congress intended to classify as class II gaming such technology which would enhance the playing of class II theme games, but not technology which would constitute facsimiles of those games. For example, the Commission recognizes as falling within the scope of class II technology devices which allow bingo players to keep track of cards, bingo blowers, or similar devices which may help in performing one function of bingo.

Electronic, Computer or Other Technological Aid

The significance of this definition is that it defines technology allowable in class II gaming. In the Senate Report, Congress mentions as allowable aids devices such as a computer, telephone, cable, television, or satellite. The Senate Report also states that such devices must be operated in accordance with applicable Federal communications law. The Commission requests comments concerning which Federal communications laws apply to such devices. The Commission included bingo blowers because they are devices which assist in performing one function of a bingo game.

Electronic or Electromechanical Facsimile

The significance of this definition is that it defines technology prohibited under the definition of class II gaming. Where technology goes beyond merely assisting in the playing of a game and becomes the game itself, the Commission proposes that such technology be classified as class III gaming and therefore under the jurisdiction of a tribal-state compact. To that end, the Commission proposes including any gambling device as defined in15 U.S.C. 1171(a) (2) or (3) ("The Johnson Act") except devices which are not games themselves and meet the criteria for technologic aid (e.g., bingo blowers).

In the Highlights portion of the Senate Report, under the heading Grace period, the Report states, "[a]ll video machines and other electronic or electromechanical facsimiles of games of change may continue to operate for 1 year after the date of enactment of the bill to give tribes the opportunity to negotiate tribal-state compacts to cover the operation of such games." In the view of the General Counsel, such language, along with the grace period language in 25 U.S.C. 2703(7)(D), provide clear and unambiguous guidance concerning Congressional intent with respect to this term. Congress clearly intended to classify as class III, video machines and other facsimile games. The grace period language is further explained and examples given in the Senate Report under the section titled Explanation of Major Provisions. There, the Report lists video bingo. Therefore, in the view of the General Counsel video bingo is a class III game.

Net Revenues

The significance of this definition is that it defines the revenue base for determining the split of profits between a management contractor and a tribe. With respect to revenues generated by a subcontract, assignment, or agreement collateral to a management contract, the Commission intends that those revenues be included in the revenue base for determining the split of profits.

Management Contract

The significance of this definition is that it defines the category of contracts which must be reviewed and approved by the Chairman and to which the statutory requirements concerning splitting net revenues apply.

The Commission views documents or agreements, whatever they are labelled, where the subject matter is management of a gaming operation, as management contracts and therefore subject to the statutory requirements for such contracts.

The Commission looked to case law to determine the meaning of collateral agreement. A collateral agreement is a prior or contemporaneous oral agreement between parties to a contract which is covered by the Statute of Frauds. That statute prohibits legal actions on certain contracts unless they are in writing. Courts generally separate out collateral agreements from the main contract for the purpose of admitting parol (oral) evidence concerning the collateral agreement. For that purpose, courts have developed a three part test: (1) Whether the agreement is an independent collateral agreement separate and distinct from the main contract; (2) whether the agreement is consistent with the provisions of the contract; and, (3) whether the agreement is such that the parties could not reasonably be expected to embody it in the contract, but would naturally make it as a separate agreement. *Markoff* v. *Kreiner*, 23 A.2d 19 (1941). Implicit in the test is a fourth criterion: (4) Whether the identity of the parties is the same. When all four parts of the test are met, the Commission would consider an agreement as a collateral agreement and

therefore subject to the statutory requirements concerning management contracts.

Tribal-State Compact

The significance of this definition is that it describes the mechanism for regulating class III gaming.

Person Having a Direct or Indirect Financial Interest in a Management Contract

The significance of this definition is that it defines the class of people for whom the Commission must perform or cause to be performed background investigations before approving a management contract. Additionally, people included in this definition must meet certain statutory criteria under 25 U.S.C. 2711(e)(1).

In interpreting the language of the IGRA to include not only stockholders but people holding interests in trusts and partnerships, the Commission proposes to subject those people to background investigations and the criteria in the statute. In doing so, the Commission intends to protect the integrity of tribal gaming operations and to protect the revenues for the tribes.

Primary Management Official

The significance of this definition is that such persons, along with key employees, must be licensed and be the subject of background investigations under 25 U.S.C. 2710(b)(2)(F). Under 25 U.S.C. 2710(b)(2)(F)(III), tribes must submit results of background investigations for primary officials and for key employees to the Commission. For other officials and employees, IGRA contains no such requirement. However, tribes may choose to conduct additional background investigations without submitting the results to the Commission.

Because a tribe must conduct and submit to the Commission background investigations for primary management officials and key employees, in defining those terms the Commission listed only the positions it views as most critical to protecting the integrity of a gaming operation. For other positions, internal controls in combination with primary management officials and key employees should serve to protect the integrity of a gaming operation. If a tribe chooses to conduct background investigations on other employees, those background investigations may be more or less extensive than those required under the IGRA. The next rule making will set out standards for background investigations and licensing of key employees and primary management officials.

Persons Having Management Responsibility for a Management Contract

The significance of this term is that such person is subject to the same statutory tests and criteria as a person having a direct or indirect financial interest in a management contract. Such person may also fall within the definition of a primary management official, thereby becoming subject to two investigations. Where that is the case, the Commission does not intend there to be two background investigations. Where a tribe has conducted a background investigation, the Commission will update that investigation when the previous investigation is adequate.

Key Employee

The significance of this definition is the same as for a primary management official above. In choosing which positions should be included in this definition, the Commission was mindful of the same concerns listed above under the discussion of primary management official. A key employee may be a custodian of, among other things, cash. As used in the definition of key employee, cash includes checks.

Gaming Operation

The significance of this term is that it provides and defines a single term to denote or stand for the gaming entity referred to in the IGRA which uses such terms as gaming, gaming activity, gaming operation, operator, and gaming enterprises; and referred to elsewhere using such terms as the hall, house, and casino. Additionally, it determines where games are played, who pays the annual fee under 25 CFR 514.1 (56 FR 40702 et seq.), and what operations must be audited.

Secretary

The significance of this definition is that it is the Secretary of the Interior who must approve (1) tribal-state compacts under 25 U.S.C. 2710(d)(3); (2) plans for per capita distribution of revenues under 25 U.S.C. 2710(b)(3); and, (3) gaming on lands acquired after enactment of the IGRA under 25 U.S.C. § 2719.

Commission

The significance of this definition is that it refers to the National Indian Gaming Commission as established under the IGRA. The Commission has the powers granted to it by Congress in the IGRA, and, as enumerated, in part, in 25 U.S.C. 2706.

Regulatory Procedures

Executive Order No. 12291 and the Regulatory Flexibility Act

The Commission has tentatively determined this document is not a major rule under E.O. 12291 and certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule will not have any significant effects on the economy or result in major increases in costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographical regions. The rule will not have significant adverse affects on competition, employment, investment, productivity, innovation, or the export/import market. The most significant effect of the proposed rule is to determine jurisdiction for certain types of gaming. The proposed rule contemplates that technology which some tribes currently believe is properly classified as class II gaming and hence under the jurisdiction of a tribe with oversight by the Commission would be deemed class III gaming. Classification as class III gaming would require tribes to negotiate compacts with states concerning the regulation of that gaming. Because of the uncertainty involved in the outcome of those negotiations, the Commission cannot estimate effects on the economy. Further, because states and tribes may negotiate compacts which limit certain technology, tribes may receive less revenue from gaming than at present. Due to these uncertainties the Commission cannot estimate the amount of revenue which may be lost and invites comments on this subject.

Pursuant to the Regulatory Flexibility Act, the Commission has tentatively determined that this rule will not have a significant impact on small business entities. However, because the Commission is new and lacks certain information that should be considered before making a final determination, the Commission invites interested persons to submit written comments regarding the impact of the proposed rule. The Comments should be directed to the location identified in the **ADDRESSES** section of this preamble.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The Commission has determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

Dated: October 29, 1991.

Anthony J. Hope,

Chairman, National Indian Gaming Commission.

List of Subjects in 25 CFR Part 502

Gaming, Indian lands.

Title 25 of the Code of Federal Regulations is amended as follows. Part 502 is added to read as follows:

PART 502—DEFINITIONS

Authority: 25 U.S.C. 2701 *et seq.*

§ 502.1 Definitions.

(a) *Chairman* means the Chairman of the National Indian Gaming Commission.

(b) *Indian lands* means (1) land within the limits of an Indian reservation; or,

(2) Land over which an Indian tribe exercises governmental power and that is either:

(i) Held in trust by the United States for the benefit of any Indian tribe or individual; or,

(ii) Held by an Indian tribe or individual subject to restriction by the United States against alienation.

(c) *Indian tribe* means any Indian tribe, band, nation, or other organized group or community of Indians that the Secretary recognizes as:

(1) Eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and,

(2) Having powers of self-government.

(d) *House banking game* means any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners.

(e) *Class I gaming* means: (1) Social games played solely for prizes of minimal value; or,

(2) traditional forms of Indian gaming when played by individuals at tribal ceremonies or celebrations.

(f) *Class II gaming* means: (1) Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:

(i) Play for prizes with cards bearing numbers or other designations; and,

(ii) Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and,

(iii) Win the game by being the first person to cover a designated pattern on such cards;

(2) If played in the same location as bingo or lotto (whether or not electronic, computer, or other technologic aids are used): pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;

(3) Non-banking card games that: (i) State law explicitly authorizes, or, does not explicitly prohibit and are played in the state; and,

(ii) Players play in conformity with state laws and regulations concerning hours, or periods of operation, or limitations on wagers or pot sizes;

(4) Card games played in the states of Michigan, North Dakota, South Dakota, or Washington where:

(i) An Indian tribe actually operates the same card games as played on May 1, 1988, as determined by the Chairman; and,

(ii) The pot and wager limits remain the same as on May 1, 1988, as determined by the Chairman.

(5) Individually owned class II gaming operations:

(i) That were operating on September 1, 1986; and,

(ii) That meet the requirements of 25 U.S.C. 2710(b)(4)(B); and,

(iii) Where the nature and scope of the game remains as it was on October 17, 1988; and,

(iv) Where the ownership interest or interests are the same as on October 17, 1988.

(g) *Class III gaming* means all forms of gaming that are not class I gaming or class II gaming, including:

(1) Any house banking game:

(i) Card games such as baccarat, chemin de fer, and blackjack (21); or,

(ii) Casino games such as roulette, craps, and keno; or,

(iii) Any other house banking game (except pull-tabs, punch boards, tip jars, instant bingo and those games allowed in paragraph (f)(4) of this section); or,

(2) Any slot machines as defined in 15 U.S.C. 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance; or,

(3) Any parimutuel wagering on horse racing, dog racing or jai alai.

(h) *Electronic, computer or other technological aid* means a device such as a computer, telephone, cable, television, satellite or bingo blower and which when used:

(1) Is not a game of chance but merely assists a player or the playing of a game; and

(2) Is readily distinguishable from the playing of a game of chance on an electronic facsimile; and,

(3) Is operated according to applicable Federal communications law.

(i) *Electronic or electromechanical facsimile* means any gambling device as defined in 15 U.S.C. 1171(a) (2) or (3) (except any gambling devices described in paragraph (h) of this section) and any games or devices such as video bingo.

(j) *Net revenues* means gross revenues of an Indian gaming operation less—

(1) Amounts paid out as, or paid for, prizes; and,

(2) Total operating expenses, excluding management fees.

(k) *Management contract* means any contract, subcontract, or collateral agreement between an Indian tribe and a contractor that provides for the management of a gaming operation.

(l) *Tribal-State compact* means an agreement between a tribe and a state about the regulation of class II gaming.

(m) *Person having a direct or indirect financial interest in a management contract* means:

(1) When a person is a party to a management contract, any person having a direct financial interest in such management contract; or,

(2) When a trust is a party to a management contract, any beneficiary or trustee who holds legal or beneficial title to at least 10% of the trust assets alone or in combination with another trustee or beneficiary who is a spouse, parent, child or sibling; or,

(3) When a partnership is a party to a management contract, any partner who shares at least 10% of the profits alone or in combination with another partner who is a spouse, parent, child or sibling; or,

(4) When a corporation is a party to a management contract, any person who is a director or who holds at least 10% of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling.

(n) *Primary management official* means:

(1) The management contractor; or,

(2) Any person who has authority:

(i) To hire and fire employees; or,

(ii) To set up working policy for the gaming operation; or,

(3) The chief financial officer or other person who has financial management responsibility.

(o) *Person having management responsibility for a management contract* means the person designated by the management contract as having management responsibility for the gaming operation.

(p) *Key employee* means an employee who performs one or more of the following functions:

(1) Bingo caller; or,

(2) Counting room supervisor; or,

(3) Chief of security; or,

(4) Custodians of gaming supplies or cash; or

(5) Floor manager (pit boss).

(q) *Gaming operation* means each economic entity that is licensed by a tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by a tribe directly; by a management contractor; or, under certain conditions, by a person or other entity.

(r) *Secretary* means the Secretary of the Interior.

(s) *Commission* means the National Indian Gaming Commission.

[FR Doc. 91-26434 Filed 10-31-91; 8:45 am]
BILLING CODE 7565-01-M

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25 CFR Part 502

Definitions Under the Indian Gaming Regulatory Act; Public Hearings

AGENCY: National Indian Gaming Commission.

ACTION: Notice of public hearings.

SUMMARY: This document announces five public hearings to receive public comments on the National Indian Gaming Commission's proposed regulations to implement definitions under the Indian Gaming Regulatory Act of 1988. These proposed regulations are published in today's **Federal Register**.

DATES: The dates and times of the hearings are listed under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The locations of the hearings are listed under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Linda G. Hutchinson, 1850 M St., suite 250, Washington, DC 20036. Telephone 202-632-7003. Fax 202-632-7066. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Commission will hold hearings on the following dates and times at the locations listed below on proposed regulations to implement definitions under the Indian Gaming Regulatory Act of 1988.

December 2, 1991—St. Paul, Minnesota, 9am–12pm, Bishop Henry Whipple Federal Building, Fort Snelling, Room 570.

December 4, 1991—Phoenix, Arizona, 9am–12pm, Best Western Airport Inn, 2425 S.24th St.

December 9, 1991—Seattle, Washington, 9am–12pm, Best Western-Airport Executel, 20717 Pacific Highway S.

December 10, 1991—Oklahoma City, Oklahoma, 1pm–4pm; Alfred P. Murrah Federal Building, 200 NW Fifth St., room 911.

December 13, 1991—Washington, DC, 9am–1pm, US Department of the Interior, 1849 C St. NW., Main Building Auditorium.

Persons who wish to present oral comments on the proposed regulations at a hearing are to notify the Commission in writing at least five (5) days in advance of the hearing. Such requests should be submitted to the person listed above in the section title **FOR FURTHER INFORMATION CONTACT**. The request to present oral comments is to include the following information: name; address; telephone number; affiliation; and the group the person represents, if appropriate.

Each person will be allowed five (5) minutes exclusive of the time consumed by questions from the hearing panel and answers to these questions. The Commission reserves the right to determine the speaking order.

Persons who have not pre-registered to speak may register at the hearing location beginning 30 minutes before the start of the hearing. Persons signing-up at the hearing location will be heard as time permits. If time does not permit all registered persons the opportunity to make an oral presentation, the Commission reserves the right to select among those persons who registered to insure that all points of views can be heard.

A written copy of comments is to be submitted at the hearing for the official record.

Each hearing will be recorded by a court reporter. A transcript of the hearing and any materials accepted by the hearing panel will be included in the public docket.

Written comments will be given the same weight and consideration as oral comments presented at the hearings. The comment period closes December 31, 1991.

Dated: October 22, 1991.

Anthony J. Hope,

Chairman.

[FR Doc. 91-26435 Filed 10-31-91; 8:45 am]
BILLING CODE

federal register

Friday
November 1, 1991

Part III

Department of Transportation

Coast Guard

33 CFR Part 157
46 CFR Parts 31, 32 and 35

Structural and Operational Measures to Reduce Oil Spills From Existing Tank Vessels Without Double Hulls; Advance Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

46 CFR Parts 31, 32, 35

[CGD 91-045]

RIN 2115-AE01

Structural and Operational Measures to Reduce Oil Spills From Existing Tank Vessels Without Double Hulls

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is soliciting comments on which structural and operational measures should be required for existing tank vessels without double hulls to provide as substantial protection to the environment as is economically and technologically feasible. Regulations requiring structural and operational measures which meet this standard of protection are mandated by the Oil Pollution Act of 1990 (OPA 90). The purpose of such regulations is to reduce the likelihood of as well as the impact from oil spills during the statutory phaseout period established by the separate requirement of OPA 90 that all tank vessels be equipped with double hulls, at the latest, by the year 2015. The Coast Guard is soliciting comments also on whether existing tank vessels should be required to install double hulls sooner than the dates set out in OPA 90.

DATES: Comments on this advance notice must be received on or before December 31, 1991.

ADDRESSES: Comments must be submitted in writing and may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3406) (CGD 91-045), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001 or may be delivered to Room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. For information concerning comments, the telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

A copy of the report by the National Academy of Sciences, titled Tanker Spills: Prevention By Design (NAS study), is in the public docket. This document is available for examination and copying between the same hours, Monday through Friday, except Federal holidays, in room 3406. The NAS study may be purchased from the National Academy Press, 2101 Constitution Avenue, NW., P.O. Box 285, Washington, DC 20055. To order by phone, call toll-free 1-800-624-6242 or call 202-334-3313 in the Washington metropolitan area.

The docket also contains a copy of Coast Guard NVIC No. 1-90 and IMO Resolution A. 647(16).

FOR FURTHER INFORMATION CONTACT: Thomas L. Neyhart, Project Manager, Oil Pollution Act (OPA 90) Staff, (G-MS-1), (202) 267-6743, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested parties to participate in this advance notice of proposed rulemaking (ANPRM) by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this ANPRM (CGD 91-045), identify the specific issues to which each comment applies, and give the basis for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed along with the comments. All comments received before the expiration of the comment period will be considered before proposed regulations are drafted. Late comments will be considered to the extent practicable without delaying the issuance of proposed regulations. To assist in the evaluation of comments, the Coast Guard requests that commenters indicate the source, when available, for both quantitative and narrative comments. Sources to be noted may properly include personal observation.

The Coast Guard plans no public hearing for this ANPRM at this time. However, one may be held at a time and place to be set in a later notice in the **Federal Register** if written requests for a hearing are received, and the Coast Guard determines that the opportunity to make oral presentations at this stage will aid the rulemaking process. Persons may request a public hearing by writing to the Marine Safety Council at the address under "**ADDRESSES**."

Drafting Information

The principal persons involved in drafting this ANPRM are Thomas L. Neyhart, Project Manager, and Pamela M. Pelcovits, Project Counsel, Oil Pollution Act (OPA 90) Staff, Office of Marine Safety, Security and Environmental Protection.

Background and Purpose

Section 4115(b) of the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101-380) adds a statutory note to the double hull requirements for tank vessels established by section 4115(a) of OPA 90 (46 U.S.C. 3703a). 46 U.S.C. 3703a note directs the Secretary of Transportation [Secretary] to:

> issue a final rule to require that tank vessels over 5,000 gross tons affected by section 3703(a) of title 46, United States Code, as added by this section, comply until January 1, 2015, with structural and operational requirements that the Secretary determines will provide as substantial protection to the environment as is economically and technologically feasible.

This statutory note applies to tank vessels described by size, construction, and age in the phaseout schedule set out in 46 U.S.C. 3703a. The tank vessels covered by 46 U.S.C. 3703a(c)(3) include those for which contracts to build, or contracts for major conversion, were placed before June 30, 1990, and that are delivered under those contracts before January 1, 1994. Moreover, 46 U.S.C. 3703a includes the following deadlines. By the year:

2010—all existing vessels over 5,000 gross tons with single hulls will be prohibited from operating.

2015—all existing vessels over 5,000 gross tons with double bottoms or double sides will be prohibited from operating.

2015—all vessels under 5,000 gross tons must be equipped with a double hull, or a double containment system, determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil.

The phaseout schedule of 46 U.S.C. 3703a was enacted to allow existing owners and operators time to plan replacing their fleets with vessels which have double hulls. Also, it was considered to represent a schedule which would ensure an adequate shipping capacity and sufficient worldwide shipbuilding capability over the next 25 years. The regulations required by 46 U.S.C. 3703a note were intended to minimize the likelihood of oil spills from existing tank vessels during the phaseout period.

No explanation of which structural and operational requirements are to be imposed on existing vessels is provided in OPA 90, except the statement that the Secretary is to determine what "will provide as substantial protection to the environment as is economically and technologically feasible." The Coast Guard interprets this language as encompassing any combination of

structural and operational measures that will minimize or prevent oil spills, provided each measure selected is technologically feasible and the costs of implementation do not exceed the anticipated benefits, to the extent they can be quantified. The Coast Guard is issuing this ANPRM to solicit information that will assist in developing proposed regulations.

In the aftermath of the oil spill from the EXXON VALDEZ, countless questions concerning the effectiveness of modern tank vessel design and operation needed to be, and were being, raised. Could a particular tank vessel design have prevented the spill at Prince William Sound? What role did human error play in the EXXON VALDEZ accident? Were the standards by which vessels are designed and operated to blame?

In 1989, the Coast Guard commissioned the National Academy of Sciences (NAS) to conduct a study to determine whether "alternative tank vessel designs" might provide a more dependable preventive defense to ensure "maritime safety and environmental protection." In particular, the Coast Guard wanted to learn if there existed other structural and operational methods which would provide protection equal to or greater than that afforded by the double hull design. An answer to this question not only would influence standards for the design and operation of new vessels, but those of existing vessels as well. The study was to be a comprehensive review of the safety, economic, and environmental implications of alternative designs including double hulls and determining how these designs might affect the overall consequences of accidents. The intent was to assemble technical information and recommendations that could be used by the Coast Guard in determining design requirements for tank vessels operating in U.S. waters.

The results of the study are compiled in the NAS report titled, Tanker Spills: Prevention By Design (NAS study). This study describes the possible costs of alternative tank vessel designs and their impacts on the safety of personnel, property, and the environment. Tank vessel designs, operations, and risks worldwide are addressed. To provide a context for its technical analysis, the study addresses the feasibility and ramifications of implementing various design options. Included in this report are certain operational options that could minimize the amount of oil spilled in an accident, particularly if the procedure has structural implications. The NAS study is available to the public as discussed in the **"ADDRESSES"** section above.

The following paragraphs address the structural and operational aspects which need to be considered in developing regulations.

Structural Measures

Based on the NAS study, the structural measures that the Coast Guard is considering are:

Double Sides
Double Bottom
Protectively Located Segregated Ballast Tanks (PL/SBT)
Resilient Membrane
Mid Deck Tanker—Independent or Convertible Tanks
Vacuum System—Mechanical or Passive Smaller Tanks

The NAS study is a leading source of information summarizing possible costs and benefits of these different structural systems for installation on single hull tank vessels. Pertinent portions of the NAS study are summarized below:

1. Retrofitting double hulls on existing tank vessels is possible. However, potential difficulties could result from combining new and old structural members. Replacement of the entire ship forward of the machinery space would entail fewer technical difficulties and would require less time in a shipyard. However, it may be more expensive than retrofitting a double hull.

2. The NAS study specifically suggests, "serious consideration be given to requiring that all existing crude oil tankers promptly meet the latest International Maritime Organization (IMO) provisions for pollution prevention for new tankers (MARPOL)." The most significant IMO provision which the Coast Guard needs to consider is the requirement for protectively located segregated ballast tanks (PL/SBT).

(**Note:** Segregated ballast tanks (SBT) refer to a ballast system that carries only water (salt or fresh), uncontaminated by the oil cargo. Protectively located (PL) describes locating ballast tanks around the cargo space to add protection to the cargo tanks.)

To meet the MARPOL requirements, the PL/SBT must be arranged to cover a specified percentage of the side and bottom shell of the cargo section. This allows the PL/SBT to provide a measure of protection against oil outflow in case of a grounding or collision. Each wing tank or double bottom tank also must meet certain minimum width or depth requirements, respectively (generally two meters). The NAS study notes that the 1978 conference for the MARPOL convention recommended that the IMO set a date by which new ship requirements would be applied to existing ships, thereby enhancing protection against oil outflow from ballasting and other operations as well. This action never has been implemented.

3. The double side design provides good protection from collisions since the cargo is separated from the outer side hull by a void. Double sides also offer some of the advantages of double bottoms because the side tanks protect as much as 15 to 20 percent of the outboard region of the bottom. This is due to the greater side tank width, which provides sufficient ballast capacity for the vessel as compared to the MARPOL side tank width requirement of two meters. However, if the majority of the damage occurs along the bottom, the NAS study concludes that a double side vessel is no better than a single-skin vessel because a substantial portion of the cargo can be lost due to damage to the cargo transfer system (as suction openings are located close to the bottom hull).

4. The double side configuration improves cargo operations somewhat, since supporting structures are located within the outer ballast side tanks. The resulting smooth inner surface of the cargo tanks reduces cargo clingage, enhances tank coating life, and simplifies tank cleaning and inspection.

5. There is concern dealing with the safety (stability) of a double side vessel after it has been damaged. This issue will need further study to answer the specific concerns voiced on adding double sides to an existing vessel. However, the NAS study concludes that double side vessels can be designed to be stable after damage.

6. The double bottom design reduces the side hull area protected by ballast tanks, in comparison to the MARPOL requirements. Drawbacks to a double bottom arrangement include: Increased risks associated with poor workmanship, corrosion, and obstacles to personnel access. Minimizing these risks will require proper construction, inspection, and maintenance. The double bottom can prevent outflow in some accident scenarios and deserves further consideration.

7. One major concern with the concept of a resilient membrane is that the membrane might be torn easily by the sharp edges of a damaged hull. Other problems are: Liner strength factors, folding characteristics, fatigue, and abrasion. There is no evidence that this concept has been utilized successfully or that it would become a viable concept in the foreseeable future.

8. The vacuum system concepts (mechanical or passive) have not been demonstrated successfully beyond controlled conditions. The real issue with a mechanical system is whether it would function when needed, as a result of possibly several years in place with an unpredictable quality of maintenance. A passive system requires instantaneous identification of damaged tanks and closure of all tank vents and piping systems to attain the vacuum required.

9. Smaller tanks would limit the volume of cargo exposed to a given point of damage. The introduction of smaller tanks would represent a return to traditional vessel design practices. The cost for retrofitting existing vessels is highly dependent on vessel configuration.

10. Retrofitting an intermediate deck to an existing vessel which meets the MARPOL requirements would require less steel than retrofitting a double bottom. However, the intermediate deck concept would require a major modification to the cargo handling, ventilation, and cleaning systems. The intermediate deck installation in the wing tanks would require considerable fitting around the existing structure. Consequently, the total retrofit cost could approach 40 to 50 percent of the replacement cost of a tanker, dependent on the age and condition of the vessel.

The Coast Guard solicits comments and data regarding whether each of these structural measures would provide as substantial protection to the environment as is technologically and economically feasible if implemented for existing tank ships and barges. Comments concerning the potential environmental impact of these potential measures also are requested. The Coast Guard is interested specifically in the:

number of ships affected;
effect on cargo capacity;
cost to retrofit the different structural measures;
effect on decision to retrofit versus installing double hull;
technical concerns involving retrofitting structural measures (e.g., welding old and new steel);
differences in implementation between tank ships and barges;
effect on industry as a whole;
effect on small businesses;
effect on cost of products for the consumer;
amount of time necessary to implement structural measures; and,
comments on the NAS study.

Operational Measures

Certain operational safety strategies may provide economically and technologically feasible means to provide substantial protection to the environment. Operational related areas which may be addressed include:

Maintenance & Inspection
Navigational Equipment
Training
Traffic Control Systems
Personnel/Manning
Speed and Maneuverability
Hydrostatically Balanced Loading
Ship Management

While other sections of OPA 90 require the Coast Guard to study or initiate rulemakings to address each of the above operational related measures (except hydrostatically balanced loading), these other sections apply to all tank vessels, not just those over 5,000 gross tons subject to 46 U.S.C. 3703a note.

The following questions are raised regarding operational measures to elicit public comment. However, the Coast Guard is interested in receiving comments on all operational measures that will provide as substantial protection to the marine environment as is economically and technologically feasible.

Navigation Equipment

Is there any existing navigation equipment that can help the operator to navigate better?

What type of equipment is suited for a particular size vessel?

What type of equipment should be required as a minimum for each vessel?

Are there types of equipment better suited for the different navigation areas of the United States?

What are the limits of the equipment, and should these limits, if any, be addressed in the rulemaking process?

Traffic Control Systems

Are there certain areas that can benefit from the use of a traffic control system?

What size vessel is best suited for a traffic control system?

How can smaller vessels be controlled through a traffic control system?

How do you require an owner of a vessel to utilize such a system?

Personnel/Training

How should the Coast Guard regulate a maximum work day?

What type of management control should the owner be required to implement for controlling workloads of the ship's crew?

Should a reporting system be instituted to allow crew members recourse in reporting violations of a maximum workday?

Speed/Maneuvering

What type of speed regulations or restrictions, if any, should be placed on tank vessels in congested areas?

Should the division of responsibility between the pilot and the operator be regulated?

Operational measures require various degrees of direct human involvement. Numerous reports which investigate tanker accidents indicate that the highest underlying cause of accidents, as a whole, is human error. The proper way to address human error is to eliminate or reduce its occurrence. The strategy of eliminating or reducing human error aims at reducing the total amount of oil spilled from tank vessels by preventing accidents. Changing operational methods regarding the management of tank vessels could provide the most immediate and effective course of action for reducing human error.

The Coast Guard and the International Maritime Organization (IMO) are addressing the proper management of ships. Navigation and Vessel Inspection Circular (NVIC) No. 1–90 calls attention to and endorses IMO Resolution A.647(16), "IMO Guidelines on Management for the Safe Operation of Ships and for Pollution Prevention," which was adopted on October 19, 1989. One of the objectives of Resolution A.647(16) is to avoid damage to the marine environment. Briefly, Resolution A.647(16) concludes that:

—Safety has to start at the corporate level to be effective.

—Periodic safety audits and checks of the company's operating policy should be made, and changes implemented, if necessary.

—The company must give the master the necessary support and authority so that the master can perform assigned duties properly and safely. This implies that the master is provided with a safe ship and trained crew and that the master is given the latitude to make decisions without undue pressure.

—A free flow of information between shore management and vessel crews will help support the safety program and avoid problems.

—Emergency planning, drills, and accident reporting are stressed under company policy.

—The master and crew will act responsibly when implementing and supporting company policy, reporting defects, and preventing injuries and pollution.

The Coast Guard thinks good management practices can increase the level of safety aboard ships and reduce

pollution. Therefore, the Coast Guard is considering whether a ship which has historically been operated with standards in excess of the minimum guidelines set forth under IMO Resolution A.647(16) would meet operational requirements that could satisfy the intent of 46 U.S.C. 3703a note. Comments are solicited regarding whether the Coast Guard should pursue this strategy and develop its regulations to reflect this approach taken by the IMO. To assist the public in commenting, a copy of NVIC No. 1–90 and IMO Resolution A.647(16) has been placed in the docket for this rulemaking and is available for copying as discussed in the "ADDRESSES" section above.

The NAS study specifically states that hydrostatically balanced loading (HBL), which could be implemented without structural changes to the vessel, may be a feasible alternative for existing vessels that do not have double hulls. The HBL concept restricts loading to maintain the hydrostatic pressure of the cargo on the bottom of a cargo tank at a level below the hydrostatic pressure of the seawater surrounding the tank. If the tank shell is pierced, there would be no pressure forcing the oil out of the cargo tank, and, consequently, the oil would be contained. However, the NAS study says that more research is needed to determine the optimal method of achieving HBL safely. In particular, the design of each vessel would have to be reviewed and all structural members would have to be inspected to ensure sufficient strength to withstand the added liquid cargo sloshing. In addition, the cumulative free surface effect caused by the partially filled tanks would have to be calculated to determine the impact on the ship's stability. The NAS study estimates that a ship using HBL would carry 15 to 20 percent less cargo, depending on design and the location of the additional equipment required for hydrostatic control. This would cause a corresponding increase in the size of tank vessel or the number of voyages needed to carry a given quantity of cargo. The latter result could increase the potential for spills. The Coast Guard solicits specific comments regarding requiring HBL on existing vessels. Of particular concern is the impact which HBL may have on the Jones Act trade.

Supporting Studies

There is little additional information currently available that the Coast Guard has identified to assist it in developing these regulatory requirements. The Coast Guard has started, or will soon undertake, a number of studies to obtain additional information. These studies will be considered in determining which methods will provide as substantial protection to the environment as is economically and technologically feasible. The following is a brief description of these studies:

1. Tanker Casualty Study. Review the worldwide tanker casualty reports and compare the actual bottom and side damage to the MARPOL regulations to determine the adequacy of the MARPOL regulations.

2. Tank Size Study. Perform a study to determine the minimum width of wing tanks and depth of double bottoms that will prevent oil outflow under low energy impact damage conditions for tankers less than 20,000 gross tons. The study will also assist in determining the maximum tank sizing and maximum oil outflow for high energy collisions.

3. NAS Report Evaluation. Evaluate the NAS study in detail to determine material pertinent to existing single hull tank vessels.

4. Operational Task Statements. Evaluate operational methods which pertain to tank vessel management and performance to develop Statements of Work for an in-depth study of selected areas of concern.

5. Technical Comparison Study. Perform a technical comparison study between the installation of double sides versus implementation of the MARPOL protectively located segregated ballast requirements. This study will provide a matrix of the advantages and disadvantages for only the technical aspects of these two structural systems.

6. Economic Comparison Study of Structural Systems. Perform an economic comparison study of the various structural systems which the NAS study recommends as possible retrofits to existing tank vessels.

7. Operational Methods for Existing Tank Vessels. Review the conclusions of the ongoing studies pertaining to related operation methods which can be employed on existing tank vessels to increase their safety. Several areas which need to be reviewed are: navigation equipment requirements, training requirements, traffic control systems, personnel and manning requirements, and speed and maneuvering requirements.

8. Hydrostatically Balanced Loading Study. Perform a separate study to determine the effects on tank vessels due to HBL. This study will emphasize the structural strength requirements of the existing tank vessel structure and also the effects of adding swash plates for reducing the sloshing action of the liquids.

The Coast Guard will accept comments pertaining to the subjects of the above listed studies. In addition, any data available which may supplement these studies are requested. Any data which demonstrate the unique differences between tank ships are requested as well. A report on each study used to develop the proposed measures will be available to the public for comment as part of a notice of proposed rulemaking.

Additional Input

Another input to the rulemaking will be the conclusions reached at IMO, particularly by the Marine Environment Protection Committee (MEPC). In this regard, the MEPC at its 31st session approved amendments to MARPOL which would require double hulls on both new and existing tankers, as well as interim measures for existing tankers until double hulls are installed. These amendments will be circulated and considered for adoption by the MEPC at its 32nd session in March 1992. The interim measures under consideration by the MEPC are: PL/SBT, HBL, and vacuum systems.

As discussed above, the Coast Guard is considering these measures in this ANPRM. However, the public is encouraged to address the additional issue of accepting, as sufficient for purposes of 46 U.S.C. 3703a note, the amendments related to existing vessels adopted by IMO.

In addition, during MEPC 31, a number of delegates proposed requiring existing tank vessels to install double hulls sooner than the dates contained in 46 U.S.C. 3703a. This issue will be further discussed at the next MEPC meeting. To assist the U.S. Delegation to IMO, comments are solicited also on whether existing tank vessels should install double hulls sooner than the dates required under 46 U.S.C. 3703a.

Regulatory Impact Analysis

At this early stage in the rulemaking process, the Coast Guard anticipates that the regulations establishing which structural and operational measures will be required for existing vessels without double hulls may be considered major under E.O. 12291. This rulemaking is significant using a number of the criteria under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040, February 26, 1979). The regulations may affect domestic and international shipment of oil to and from the United States and may generate substantial public interest and controversy.

The primary economic impact of any regulations would fall on the owners of the existing fleet of tank vessels over 5,000 gross tons which do not have double hulls, as they would be required to make the structural and operational changes to comply with the regulations. These vessels would include 3,950 United States-flag tank vessels (ships and barges) subject to inspection by the Coast Guard and approximately 2,500 foreign-flag tank vessels. The number of foreign-flag vessels is based on the number of vessels that called in United States waters in 1990 and were issued an annual Tank Vessel Examination letter by the Coast Guard.

Regulations prescribing the structural and operational requirements that will provide as substantial protection to the environment as is economically and technologically feasible are required by 46 U.S.C. 3703a note. In this ANPRM, the Coast Guard has identified different possible approaches to this regulatory requirement. The Coast Guard will use the information received in response to the ANPRM, together with the results of the studies discussed above, to propose appropriate structural and operational measures. Accordingly, actual costs cannot be determined at this time.

However, the NAS study does contain information that illustrates how the economic impacts of the regulations may be addressed. For example, with respect to one operational measure, HBL, the study concludes that while the potential costs and benefits are difficult to evaluate, it is reasonable to conclude that such a requirement might expedite construction of new double hull vessels. The NAS study explains that implementing HBL would reduce cargo capacity by 15 to 20 percent. The study determines that:

> If all existing vessels had been built at present costs, the limited data available to the committee indicates that reducing cargo capacity to accommodate hydrostatic loading (if implemented immediately) would cost about $1.1 billion per year, while saving 3,700 to 4,300 tons of oil spilled annually. Existing vessels were built over many years at a wide range of costs, so the total cost could be considerably less than the dollar amount stated. The actual impact on ship rates would be influenced by the relationship between vessel supply and demand. If existing vessels were insufficient to meet the cargo capacity shortfall, then costs would increase until new vessels were built.

Other considerations with respect to HBL include an increase in personnel requirements, increased vessel traffic (from reduced cargo capacity) and the decline in benefits as new double hull vessels replace the existing fleet. Similar calculations and consideration will have to be made in selecting the operational and structural measures to be included in the regulations.

Because the full extent of the economic impact of this regulatory project cannot be quantified at this stage, a primary purpose of this ANPRM is to help the Coast Guard determine costs in developing any new requirements, to the extent that they exceed current legal and regulatory requirements or current industry practice. The Coast Guard anticipates that the public response to this ANPRM, together with data from additional studies, will assist it in writing a draft regulatory impact analysis as part of developing the proposed regulations. The Coast Guard will consider all timely comments in developing the proposed regulations. To assist in the evaluation of comments, the Coast Guard requests that commenters indicate the source, when available, for both quantitative and narrative comments. Sources to be noted may properly include personal observation.

Collection of Information

The Coast Guard cannot yet estimate the paperwork burden associated with this rulemaking since no regulations have been developed. However, at a later stage, the Coast Guard may propose that tank vessel operators maintain records which would be available upon request to the Coast Guard. The Coast Guard expects that comments received on this advance notice will assist in its estimating the potential paperwork burden, as required under the Paper Work Reduction Act (44 U.S.C. 3501 et seq.). Once estimated, the Coast Guard will submit this record-keeping requirement to the Office of Management and Budget for approval.

Small Entities

Because rules have not been proposed, the Coast Guard has not able to determine the effect the regulations may have upon small entities. However, there is a potential significant impact on a substantial number of small businesses. Agencies may delay the completion of the initial regulatory analysis under section 608(a) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The Coast Guard expects that the comments received on this ANPRM will assist it in determining the number of affected small entities and in weighing the impact of various regulatory alternatives.

Environment

This rulemaking should have a positive impact on the environment by ensuring that existing tank vessels that do not have a double hull comply with structural and operational requirements that provide as substantial protection to the environment as is economically and technologically feasible. Before a proposed rule is published, a document will be prepared in accordance with the Coast Guard publication, COMDTINST M16475.1B. That document, which will describe the anticipated environmental effects of the proposed rules, will be placed in the docket for inspection or copying. The Coast Guard invites comments addressing possible effects the alternatives discussed in this ANPRM may have on the human environment, or on potential inconsistencies with any Federal, state, or local law or administrative determinations relating to the environment.

Federalism

This ANPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. Based on the information available to it at this time, the Coast Guard determines that this rulemaking would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Dated: October 30, 1991.

Martin H. Daniell,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

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CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-2470).

H.R. 972/Pub. L. 102-137

To make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W. 4643, May 29, 1990), of the power of Indian tribes to exercise criminal jurisdiction over Indians. (Oct. 28, 1991; 105 Stat. 646; 1 page) Price: $1.00

H.R. 1415/Pub. L. 102-138

Foreign Relations Authorization Act, Fiscal Years 1992 and 1993. (Oct. 28, 1991; 105 Stat. 647; 89 pages) Price: $2.75

H.R. 2519/Pub. L. 102-139

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992. (Oct. 28, 1991; 105 Stat. 736; 46 pages) Price: $1.50

H.R. 2608/Pub. L. 102-140

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992. (Oct. 28, 1991; 105 Stat. 782; 52 pages) Price: $1.50

H.R. 2622/Pub. L. 102-141

Treasury, Postal Service and General Government Appropriations Act, 1992. (Oct. 28, 1991; 105 Stat. 834; 44 pages) Price: $1.50

H.R. 2698/Pub. L. 102-142

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992. (Oct. 28, 1991; 105 Stat. 878; 39 pages) Price: $1.25

H.R. 2942/Pub. L. 102-143

Department of Transportation and Related Agencies Appropriations Act, 1992. (Oct. 28, 1991; 105 Stat. 917; 49 pages) Price: $1.50

H.J. Res. 340/Pub. L. 102-144

To designate October 19 through 27, 1991 as "National Red Ribbon Week for a Drug-Free America". (Oct. 28, 1991; 105 Stat. 966; 2 pages) Price: $1.00

H.J. Res. 360/Pub. L. 102-145

Making further continuing appropriations for the fiscal year 1992, and for other purposes. (Oct. 28, 1991; 105 Stat. 968; 4 pages) Price: $1.00

S.J. Res. 131/Pub. L. 102-146

Designating October 1991 as "National Down Syndrome Awareness Month". (Oct. 28, 1991; 105 Stat. 972; 2 pages) Price: $1.00

S.J. Res. 192/Pub. L. 102-147

Designating October 30, 1991 as "Refugee Day". (Oct. 28, 1991; 105 Stat. 974; 2 pages) Price: $1.00

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—NOVEMBER 1991

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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November 20	December 5	December 20	January 6	January 21	February 18
November 21	December 6	December 23	January 6	January 21	February 19
November 22	December 9	December 23	January 6	January 21	February 20
November 25	December 10	December 26	January 9	January 24	February 24
November 26	December 11	December 26	January 10	January 27	February 24
November 27	December 12	December 27	January 13	January 27	February 25
November 29	December 16	December 30	January 13	January 28	February 27