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Contents

Federal Register
Vol. 57, No. 25
Thursday, February 6, 1992

Agency for Toxic Substances and Disease Registry
NOTICES
Meetings:
Health assessments workshop, 4634

Agriculture Department
See also Commodity Credit Corporation
NOTICES
Agency information collection activities under OMB review, 4595

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 4617

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
North Dakota, 4595

Commerce Department
See Economic Development Administration; Export Administration Bureau; International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration; National Technical Information Service

Commodity Credit Corporation
RULES
Loan and purchase programs:
Price support levels—
Rice, 4543

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 4681

Customs Service
PROPOSED RULES
Merchandise entry:
Liquidated damages assessment for failure to deposit estimated duties, taxes and charges, or to remit Customs passenger processing fees, 4589

Defense Department
See also Air Force Department
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 4617
Meetings:
Streamlining and Codifying Acquisition Laws Advisory Panel, 4617

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Albanoski, Broughton & Associates International, 4646
Research Biochemicals, Inc., 4646

Economic Development Administration
NOTICES
Trade adjustment assistance eligibility determination petitions:
G&R Machinery Co. et al., 4595

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
College facilities loan program, 4686
Veterans education outreach program, 4688

Employment and Training Administration
NOTICES
Adjustment assistance:
A.O. Smith Electrical Products Co. et al., 4646
Carbonaire, Inc., 4647
Monarch Machine Tool Co., 4648
Grants and cooperative agreements; availability, etc.:
Job Training Partnership Act—
National level multi-State programing to train and employ disabled; orrection, 4648

Energy Department
See Energy Information Administration; Federal Energy Regulatory Commission

Energy Information Administration
NOTICES
Forms; availability, etc.:
Commercial buildings energy consumption survey, 4617

Environmental Protection Agency
RULES
Toxic substances:
Significant new uses—
Sulfurized alkylphenol, 4576
NOTICES
Superfund; response and remedial actions, proposed settlements, etc.:
Linemaster Switch Corp. Site, CT, 4629

Export Administration Bureau
RULES
Export administration regulations; revisions, 4553

Export-Import Bank
NOTICES
Agency information collection activities under OMB review, 4630

Federal Aviation Administration
PROPOSED RULES
Airport radar service areas, 4589

Federal Communications Commission
PROPOSED RULES
Television broadcasting:
Aural broadcast STL and ICR stations and TV low power auxiliary stations; technical and operations requirements; withdrawn, 4592

NOTICES
Agency information collection activities under OMB review, 4630

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 4681

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 4681

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Allegheny Generation Corp., 4619
Environmental statements; availability, etc.:
Enviro Hydro, Inc., 4619
Summersville, WV, 4620
Hydroelectric applications, 4629–4625
Natural Gas Policy Act:
State jurisdictional agencies tight formation recommendations; preliminary findings—
Colorado Oil and Gas Conservation Commission, 4626
Land Management Bureau, 4627
Applications, hearings, determinations, etc.:
Arkansas Oklahoma Gas Corp., 4627
Northern Natural Gas Co., 4627
Northwest Pipeline Corp., 4627
Southern Energy Co., 4628
Southern Natural Gas Co., 4628
Tennessee Gas Pipeline Co., 4628
Three Rivers Pipeline Co., 4629
United Gas Pipe Line Co., 4629
Williams Natural Gas Co., 4629

Federal Maritime Commission
RULES
Marine terminal services arrangements; exemption, 4578
NOTICES
Agreements filed, etc., 4631

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Berkshire Financial Services, Inc., et al., 4632
U.S. Trust Corp., 4632

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 4681

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations, 4633
Prohibited trade practices:
Mpls. Center for Cosmetic and Laser Surgery, 4633
Pinkerton Tobacco Co., 4634

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 4641

Foreign Claims Settlement Commission
NOTICES
Meetings; Sunshine Act, 4681

General Services Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 4617

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry; Health Resources and Services Administration; National Institutes of Health; Public Health Service

Health Resources and Services Administration
See also Public Health Service
NOTICES
Advisory committees; annual reports; availability, 4634

Indian Affairs Bureau
NOTICES
Judgment funds; plans for use and distribution:
Zuni Indian Tribe, 4690

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Carton closing staples and stapling machines from Sweden, 4596
Countervailing duties:
Cotton sheeting and sateen from Peru, 4596
Cotton yarn from—
Peru, 4597
Scope rulings; list, 4597

Interstate Commerce Commission
PROPOSED RULES
Practice and procedure:
Interest rate calculation; procedures revision, 4594

Judicial Conference of the United States
NOTICES
Meetings:
Judicial Conference Advisory Committee on—
Criminal Justice Act Review, 4643

Justice Department
See also Drug Enforcement Administration; Foreign Claims Settlement Commission
NOTICES
Pollution control; consent judgments:
Bowling Industries, Inc., et al., 4643
Buckeye, AZ, 4643
Lindsay Manufacturing Co., 4644
Lindsey, Alvin R., et al., 4644
Lionetti Oil Recovery, Inc., 4645
Midwest Solvent Recovery, Inc., 4645
Westinghouse Electric Corp. et al., 4645

Labor Department
See Employment and Training Administration

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Colorado Interstate Gas Co., CO; natural gas pipeline right-of-way, 4639

Oil and gas leases:
Rental rate reduction, 4639
Realty actions; sales, leases, etc.:
Wyoming, 4640
Survey plat filings:
Idaho, 4640
Withdrawal and reservation of lands:
California, 4641

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 4682, 4683

Maritime Administration
NOTICES
Applications, hearings, determinations, etc.:
Puerto Rico Maritime Shipping Authority, 4677

Minority Business Development Agency
NOTICES
Business development center program applications:
New Mexico, 4599
North Dakota, 4600
Oklahoma, 4601
Texas, 4602

National Aeronautics and Space Administration
RULES
Space shuttle:
Payload flights for non-U.S. Government reimbursable customers, 4544
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 4617
Meetings:
Space Science and Applications Advisory Committee, 4648

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment—Conspicuity systems for large trailers, 4594
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Chrysler Corp., 4675
Navistar International Transportation Corp., 4676

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 4635, 4636
National Heart, Lung, and Blood Institute, 4637
National Institute of Dental Research, 4635
National Institute of Diabetes and Digestive and Kidney Diseases, 4636
National Institute on Deafness and Other Communication Disorders, 4636
National Library of Medicine, 4635
Research Grants Division study sections, 4637
National Heart, Lung, and Blood Institute (2 Documents)
[**Editorial note**: These documents appearing on page 4050 in the **Federal Register** of February 3, 1992, were incorrectly listed under Committees; establishment, renewal, termination, etc.:.]

National Oceanic and Atmospheric Administration
NOTICES
Marine Mammal Commission; recommendations to the International Whaling Commission, 4603
Whaling Commission, International:
Bowhead whale; strike quota, 4615

National Park Service
RULES
Special regulations:
Lafayette Park, District of Columbia; property storage prohibition, 4574
PROPOSED RULES
National Natural Landmarks Program, 4592
Special regulations:
Golden Gate National Recreation Area, CA; bicycle routes
Correction, 4592
NOTICES
Meetings:
Gates of Arctic National Park Subsistence Resource Commission, 4642
National Park System Advisory Board, 4642

National Science Foundation
NOTICES
Meetings:
Alan T. Waterman Award Committee, 4649
Earth Sciences Proposal Review Panel, 4649
Engineering Centers Division Advisory Panel, 4649, 4650
International Programs Review Panel, 4650
Mathematical Sciences Special Emphasis Panel, 4651
Mechanical and Structural Systems Advisory Committee, 4651
Teacher Preparation and Enhancement Special Emphasis Panel, 4651

National Technical Information Service
NOTICES
Inventions, Government-owned; availability for licensing, 4616

Neighborhood Reinvestment Corporation
NOTICES
Meetings; Sunshine Act, 4683

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Commonwealth Edison Co., 4651
Meetings:
Organizational conflicts of interest, 4652

Postal Rate Commission
NOTICES
Visits to facilities, 4653

Public Health Service
See also Agency for Toxic Substances and Disease Registry; Health Resources and Services Administration; National Institutes of Health
NOTICES
Meetings:
National Vaccine Advisory Committee, 4638

Railroad Retirement Board
NOTICES
Agency information collection activities under OMB review, 4653

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 4653
Chicago Board Options Exchange, Inc., 4655
Municipal Securities Rulemaking Board, 4657
National Association of Securities Dealers, Inc., 4658
Pacific Stock Exchange, Inc., 4660
Self-regulatory organizations; unlisted trading privileges:
Cincinnati Stock Exchange, Inc., 4656
Midwest Stock Exchange, Inc., 4657
Pacific Stock Exchange, Inc., 4660, 4661
Philadelphia Stock Exchange, Inc., 4662
Applications, hearings, determinations, etc.:
Centerland Fund et al., 4662
Neuberger & Berman Advisers Management Trust et al., 4666
PFL Variable Annuity Fund I, 4668
PFL Variable Annuity Fund III, 4669
PFL Variable Annuity Fund IV, 4670
PFL Variable Annuity Fund V, 4668
PFL Variable Annuity Fund VI, 4670
SFT, Inc., 4673

State Department
NOTICES
Meetings:
International Investment Advisory Committee, 4674
International Telegraph and Telephone Consultative Committee, 4674
Shipping Coordinating Committee, 4675
U.S.-Brazil bilateral talks on telecommunications and information policy and technology, 4675

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency information collection activities under OMB review, 4642

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration; Maritime Administration; National Highway Traffic Safety Administration

Treasury Department
See also Customs Service
NOTICES
Agency information collection activities under OMB review, 4678, 4679

United States Information Agency
NOTICES
Art objects, importation for exhibition:
Guercino: Master Painter of the Baroque, 4679

Separate Parts In This Issue

Part II
Department of Education, 4686

Part III
Department of Education, 4688

Part IV
Department of Interior, Bureau of Indian Affairs, 4690

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
1421 4543

14 CFR
1214 4544

Proposed Rules:
71 4589

15 CFR
768 4553
770 4553
771 4553
772 4553
773 4553
774 4553
775 4553
776 4553
777 4553
778 4553
779 4553
785 4553
786 4553
790 4553
791 4553
799 4553

19 CFR

Proposed Rules:
24 4589
113 4589
142 4589

36 CFR
7 4574

Proposed Rules:
7 4592
62 4592

40 CFR
721 4576

46 CFR
515 4578
560 4578
572 4578

47 CFR

Proposed Rules:
74 4592

49 CFR

Proposed Rules:
571 4594
1141 4594

Rules and Regulations

Federal Register
Vol. 57, No. 25
Thursday, February 6, 1992

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.
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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

Rice World Price Formula and Announcement Time

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR 1421.25 to change the announcement time of the adjusted world price for rice and to allow for the use of world market prices, expressed by class of rice per 100 pounds, as the basis for calculating marketing loan gains and loan deficiency payment rates. These changes were included in a proposed rule published in the **Federal Register** October 28, 1991. The intent of this rule is to establish an announcement time for the rice adjusted world price so that only one price level would be effective during any workday.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera, Agricultural Economist, Commodity Analysis Division, USDA/ASCS, room 3740–S, P.O. Box 2415, Washington, DC 20013 or call (202) 720–7923.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1512–1 and Executive Order 12291 and has been classified as "non-major."

It has been determined that the Regulatory Flexibility Act is not applicable because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The title and number of the Federal assistance program, as found in the catalog of Federal Domestic Assistance, to which this proposed rule applies, are as follows: Rice Production Stabilization—10.065.

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

This amendment to 7 CFR part 1421 does not impose any new or revised information collection or recordkeeping requirements on the public.

7 CFR Part 1421

A proposed rule was published in the **Federal Register** on October 28, 1991, at 56 FR 55473 to amend the regulations found at 7 CFR part 1421 with respect to the announcement time of the adjusted world price for rice and to allow for the use of world market prices, expressed by class of rice for National average milling outturns, as the basis for calculating marketing loan gains and loan deficiency payments. The proposed rule also requested comments on the 1992 Acreage Reduction Program (ARP). Comments received and CFR revisions regarding the 1992 ARP will be addressed in a separate final rule.

Discussion of Comments

Fifty comments were received expressing a view on the proposal to change the announcement time of the adjusted world price of rice from Tuesday at 3 p.m. Eastern time to Tuesday at 7 a.m. Eastern time. The intent of this proposal was to establish an announcement time for the rice adjusted world price so that only one price level would be effective during any workday. Twenty comments supported the current announcement weekday and time of day. Generally, support for the current announcement time was based on the view that it is working well and there are no compelling reasons to change it.

Thirty comments favored changing the announcement time, with twenty of these comments favoring an announcement at the proposed time of 7 a.m. Tuesday. Four comments favored a Wednesday morning announcement and 6 comments favored a change with no weekday or time of day specified. After reviewing the comments received, it has been decided to change the announcement time of the adjusted world price of rice to Tuesday at 7 a.m. Eastern time. If either the Monday or Tuesday of a week are not workdays, the adjusted world price of rice will be announced on the Wednesday of such week at 7 a.m. Eastern time. The price announced at such time will be effective at 12:00:01 a.m. of the day it is announced. The announcement time is being changed because under the current announcement procedure, administrative problems occur when two world prices are effective on the same workday.

A total of 136 comments were received regarding the proposal to calculate marketing loan gains and loan deficiency payments on the basis of National average milling yields rather than on the milling yields of individual quantities of rice. The current method of calculating payment rates is supported by 131 comments. A frequently expressed view was that marketing loan program benefits should vary according to the quality of rice eligible for such benefits. Several commented that uniform payment rates by class of rice would be a disincentive to the production of high milling quality rice. After reviewing the comments, it has been decided that marketing loan gains and loan deficiency payment rates will be calculated based on National average milling yields since this revision will speed disbursement of program benefits and simplify program administration without significant adverse impacts on individual producers.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs—agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Accordingly, 7 CFR part 1421 is amended to read as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

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

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

2. In § 1421.25, paragraphs (a)(5)(vi) and (a)(6) are revised to read as follows:

§ 1421.25 Market price repayments.

(a) * * *

(5) * * *

(vi) The price determined in accordance with paragraph (a)(5)(v) of this section may be adjusted to a whole kernel loan rate basis by deducting the estimated domestic market value of the total quantity of broken kernels contained in such rice and dividing the resulting value by the estimated National average quantity of milled whole kernels produced in milling 100 pounds of rice.

(6) The average world price for each class for rice, loan rate basis, shall be determined by CCC and shall be announced, to the extent practicable, on or after 7 a.m. Eastern time each Tuesday continuing through the last Tuesday of July 1996, but may be announced more or less frequently, as determined by CCC. In the event that Monday or Tuesday is a non-workday, the world prices for each class of rice will be announced on the Wednesday of the same week, on or after 7 a.m. Eastern time. The announced prices will be effective at 12:00:01 a.m. of the day of the next world price announcement.

* * * * *

Signed on January 23, 1992 at Washington, DC.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92-2874 Filed 2-5-92; 8:45 am]

BILLING CODE 3410-05-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

RIN 2700-AA45

Space Shuttle

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim final rule.

SUMMARY: NASA is amending 14 CFR part 1214 by consolidating Subparts 1214.1, "Reimbursement for Shuttle Services Provided to Non-U.S. Government Users," and 1214.8, "Reimbursement for Spacelab Services." In an effort to avoid duplication and integrate related material into a single subpart, this consolidation combines these two subparts into one to become Subpart 1214.1, "General Provisions Regarding Space Shuttle Flights of Cargo-bay Payloads for Non-U.S. Government Reimbursable Customers." Subpart 1214.2, "Reimbursements for Shuttle Services Provided to Civil U.S. Government Users and Foreign Users Who Have Made Substantial Investment in the STS Program," has been deleted.

The intended effect of this interim final rule is to: (a) Add eligibility criteria for use of the Shuttle for launch of a payload; (b) establish revised pricing algorithms based on current Shuttle capability; (c) delete the offer of a standard shared flight to an inclination of 57°; (d) delete the Standby Payload, Short-term Call-up, and Exceptional Payload provisions of the existing policies; (e) revise postponement and termination fees; (f) revise the scheduling policy; (g) revise the reflight provisions; and (h) revise launch and operational criteria for standard Shuttle flights.

DATES: *Effective Date:* February 6, 1992. Comments must be submitted on or before March 9, 1992.

ADDRESSES: Office of Space Flight, Mail Code MC, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Robert L. Tucker, Jr., (202) 453-2347.

SUPPLEMENTARY INFORMATION: On January 21, 1977, NASA published its final rule Subpart 1214.1, "Reimbursement for Shuttle Services Provided to Non-U.S. Government Users," in the **Federal Register** (42 FR 3929), and on February 11, 1977, published Subpart 1214.2, "Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and Foreign Users Who Have Made Substantial Investment in the STS Program," in the **Federal Register** (42 FR 8631). On December 20, 1979, proposed changes to these two subparts were published in the **Federal Register** (44 FR 75395). These proposed changes are withdrawn and subpart 1214.2 is deleted. Subpart 1214.1 and the provisions of Subpart 1214.8, "Reimbursement for Spacelab Services," (50 FR 30809, July 30, 1985) are consolidated to eliminate unnecessary duplication of material by combining these two subparts into a single Subpart 1214.1, "General Provisions Regarding Space Shuttle Flights of Cargo-bay Payloads for Non-U.S. Government Reimbursable Customers."

The following is a brief explanation of the changes in the order in which they are presented in this interim final rule.

Specific requirements regarding the eligibility of a non-U.S. government payload to fly on the Space Shuttle are defined in § 1214.101.

A number of new definitions are incorporated in § 1214.102 for clarity. Section 1214.103 is defined to apply only to standard services to clarify previous misunderstandings. In § 1214.103(b), NASA agrees to establish a fixed price (subject to escalation) for standard services up to 3 years in advance of launch. Section 1214.103(e) documents the fundamental principle that shared-flight pricing is not tied to individual flight manifests.

Section 1214.103(g) contains the algorithms formerly found in appendix D of subpart 1214.1. The reference Shuttle launch weight capability used in load factor computations of § 1214.103(g)(4) has been changed from 29,478 kg (65,000 lbs) to 21,542 kg (47,500 lbs). The revised value is more in keeping with current Shuttle capability. The new capability does not apply to customers who have already submitted earnest money prior to publication of this rule. The payment schedule of § 1214.103(h)(2) has been modified to reflect current NASA practices.

A new § 1214.104 is incorporated to formalize the procedures used for charging for optional services. Practices described are those now in use by NASA.

Section 1214.106 has been revised to reflect minor-delay provisions consistent with those used in launch agreements.

Major revisions in postponement procedures are established in § 1214.107. Occupancy fee charges are eliminated and all postponement fees are allocated according to a fixed schedule. Section 1214.107(c) provides some flexibility for customers to postpone, within reasonable limits, without exposure to a new price.

Section 1214.108 has been revised to be conceptually similar to § 1214.107. The term "cancellation" has been replaced with "termination" for consistency with the Launch Services Agreement.

A revision of the scheduling policy is contained in § 1214.109. This revision reflects the realities of operation in the current environment and NASA's need to conduct operations in an orderly, efficient manner. NASA's intention to be responsive to the needs of customers whose payloads require a reflight is stated in paragraph (d) of that section.

Section 1214.110 has been revised. Section 1214.110(a) limits reflight to dedicated flights and those shared-flight payloads that can be accommodated on a standard Shuttle launch, because of the cost risk associated with manifesting flights to nonstandard destinations. It also establishes that reflights for qualifying payloads will be provided at NASA's marginal cost. Section 1214.110(b) further requires that the reflight involve flight of an essentially identical payload with essentially identical integration and flight operations requirements. Because the customer's price no longer includes a reflight premium, free reflights are no longer offered.

Section 1214.111 defines the types of missions that may require rendezvous of the Shuttle with an on-orbit spacecraft.

Section 1214.112 has been revised to remove the patent and data rights provisions for U.S. Government customers.

Section 1214.113 establishes general provisions regarding allocation of certain risks.

Section 1214.117 is an amplification and revision of material contained in current policies. Because of low shared-flight traffic demand for the 57° orbit, NASA withdraws the offer of standard shared flights to this inclination on the grounds that there is little likelihood of attaining equitable cost recovery on such flights. NASA may continue to provide service to this and other nonstandard orbits under optional service arrangements.

To the extent that deployable payloads are allowed to use the Space Shuttle under the use policy specified in § 1214.101, § 1214.118 requires that special criteria, to be specified in the launch agreement, be met by deployable payloads in order for them to qualify for the standard flight price.

The Standby, Short-term Call-up, and Options offers of the previous policy have been deleted because they are impractical to implement in today's operating environment.

The Exceptional Payload provisions of the previous policy have been deleted because the NASA Administrator has the right under the Space Act to establish prices as appropriate in special cases.

The entire contents of the former Subpart 1214.8, "Reimbursement for Spacelab Services," have been combined into this subpart 1214.1 and reformatted as a single section, § 1214.119. The contents of this section are essentially identical to the former § 1214.8 with the following exceptions:

(1) References to provisions deleted from the basic policy (e.g., short-term call-up) have been deleted;

(2) In § 1214.119(l)(5)(ii)(A), a change is made in the load factor algorithm for a dedicated FMDM/MPESS as a result of the modification in the load factor algorithm of § 1214.103(g). Load factor computations for other Spacelab payloads are unaffected by this change;

(3) Provisions regarding customer-furnished payload specialists have been removed. This subject is now covered in a separate Subpart 1214.3, "Payload Specialists for Space Transportation System Missions."

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1214

Government employees, Government procurement, Security measures, Space shuttle, Space transportation and exploration, Payload specialist, Astronauts.

For reasons set out in the preamble, 14 CFR part 1214, subpart 1214.1 is revised to read as follows:

PART 1214—SPACE SHUTTLE

Subpart 1214.1—General Provisions Regarding Space Shuttle Flights of Payloads for Non-U.S. Government, Reimbursable Customers

Sec.

1214.100 Scope.
1214.101 Eligibility for flight of a non-U.S. government reimbursable payload on the Space Shuttle.
1214.102 Definitions.
1214.103 Reimbursement for standard services.
1214.104 Reimbursement for optional services.
1214.105 Apportionment and/or assignment of services.
1214.106 Minor delays.
1214.107 Postponement.
1214.108 Termination.
1214.109 Scheduling.
1214.110 Reflight.
1214.111 Rendezvous services.
1214.112 Patent, data and information matters.
1214.113 Allocation of risk.
1214.114 Provision of services.
1214.115 Standard services.
1214.116 Typical optional services.
1214.117 Launch and orbit parameters for a standard launch.
1214.118 Special criteria for deployable payloads.
1214.119 Spacelab payloads.

Authority: Sec. 203, Pub. L. 85–568, 72 Stat. 429, as amended (42 U.S.C. 2473); Sec. 201(b) Pub. L. 87–624, 76 Stat. 421 (47 U.S.C. 721(b)).

Subpart 1214.1—General Provisions Regarding Space Shuttle Flights of Payloads for Non-U.S. Government, Reimbursable Customers

§ 1214.100 Scope.

This Subpart 1214.1 sets forth general provisions regarding flight of Space Shuttle cargo bay payloads for non-U.S. government, reimbursable customers. It does not apply to Small Self-Contained Payloads flown under the provision of Subpart 1214.9 or payloads flown on a space-available basis on NASA-provided Hitchiker carriers.

§ 1214.101 Eligibility for flight of a non-U.S. government reimbursable payload on the Space Shuttle.

To be eligible for flight on the Space Shuttle, non-U.S. government, reimbursable payloads must meet criteria for use of the Shuttle established by U.S. law and public policy. The NASA Administrator will determine and/or certify the compliance of the payload with these criteria. To qualify for flight on the Space Shuttle, non-U.S. government, reimbursable payloads must require the unique capabilities of the Shuttle, or be important for either national security or foreign policy purposes.

§ 1214.102 Definitions.

(a) *Customer.* Any non-U.S. government person or entity who, by virtue of a contract or other arrangement with NASA, arranges for or otherwise provides payloads to be flown on the Shuttle on a reimbursable basis.

(b) *Dedicated flight.* A shuttle flight flown for a single customer.

(c) *Dedicated flight price.* The price established by NASA for a dedicated flight that provides the standard services listed in § 1214.115 for 1 day of single-shift, on-orbit mission operations.

(d) *Jettison.* To physically separate all or a portion of a payload from the Shuttle after liftoff of the Shuttle without the intent of fulfilling the payload operations requirements agreed to by NASA and the customer.

(e) *Launch agreement.* The primary document between NASA and the non-U.S. government, reimbursable customer, containing the detailed terms, conditions, requirements and constraints under which NASA commits to provide launch services.

(f) *Marginal cost.* Solely for the purposes of determining the cost of a reflight launch, marginal cost is defined as the cost to the U.S. Government, as

determined by NASA's normal accounting procedures, associated with the addition or reduction of one flight in a given U.S. government fiscal year.

(g) *Non-U.S. government reimbursable customers* are:

(1) All non-U.S. Government persons or entities paying NASA for Shuttle services under this Subpart 1214.1; or

(2) U.S. Government agencies obtaining reimbursable Shuttle services for those persons or entities cited in paragraph (g)(1) of this section; e.g., the Department of Defense under a Foreign Military sales case.

(h) *Optional services.* Those nonstandard services provided at the customer's request and with the concurrence of NASA. The price for optional services is not included in the standard flight price.

(i) *Payload integration documentation.* Documentation developed to reflect NASA/customer agreements on payload requirements, payload/Shuttle interfaces, and ground and flight implementation of the mission. Includes the Payload Integration Plan, its Annexes and all related documentation.

(j) *Payload length.* The maximum length of the payload in the Space Shuttle cargo bay at any time during launch, landing, operations, deployment, servicing or retrieval. It includes any clearance length necessary for items such as dynamic envelope considerations, deployment, retrieval, servicing and use of the remote manipulator system.

(k) *Payload weight.* The maximum weight of the payload in the Space Shuttle cargo bay, including the weight of the payload itself and a pro rata share of the weight of any special equipment or materials needed for the mission.

(l) *Scheduled launch date.* NASA's official then-best-estimate of the data of launch. This will be the date of record for all scheduling and reimbursement procedures.

(m) *Shared flight.* A flight that may be shared by more than one customer.

(n) *Shuttle standard flight price.* The price for Shuttle standard services provided to the customer.

(o) *Standard launch.* A launch meeting all the launch and orbit criteria defined in § 1214.117.

(p) *Standard services.* Those services which are generally made available for all customers, which for Space Shuttle are generically defined in NASA document NSTS 07700, Volume XIV, and which are included in the standard flight price. If the payload uses only a portion of the standard services, the standard flight price will not be affected.

§ 1214.103 Reimbursement for standard services.

(a) *Establishment of price.* NASA will establish, and update as appropriate, the standard flight price under this § 1214.1.

(b) *Advance pricing.* NASA normally will agree to a standard flight price no later than 3 years in advance of launch.

(c) *Price stability.* The standard flight price will be fixed, subject to the terms of the launch agreement, and subject to escalation pursuant to § 1214.103(d), and will be the price set by NASA as of the time of signing a launch agreement.

(d) *Escalation of payments.* With the exception of payments for earnest money, all payments will be escalated according to the U.S. Bureau of Labor Statistics Index, "Private Business Sector, All Persons: Productivity, Hourly Compensation, Unit Labor Cost and Prices Seasonally Adjusted" table, "Compensation, Per Hour," column published in the U.S. Department of Labor, Bureau of Labor Statistics, news release entitled "Productivity and Costs."

(e) *Independence of pricing and manifesting.* The standard flight price for a shared flight payload as computed from 1214.103(g) will be independent from the actual payload manifest for a specific shared flight.

(f) *Allocation of services.* (1) Customers contracting for a dedicated flight are eligible for the full standard services, as defined in § 1214.115, available on the flight.

(2) Customers contracting for a standard shared flight meeting the criteria of § 1214.117 are eligible for a portion of the standard services, as defined in § 1214.115, available on the flight. The basis of apportionment will be determined by NASA and will be a function of the payload load factor.

(g) *Computation of prices.* (1) The Shuttle standard flight price for a dedicated flight is the dedicated flight price as defined in § 1214.102(c).

(2) The Shuttle standard flight price for a standard shared flight is the product of the payload's charge factor and the dedicated flight price as defined in § 1214.102(c).

(3) The computed charge factor for a payload is defined as:

$$\frac{\text{Load Factor}}{0.75}$$

If the computed charge factor exceeds 1.0, the charge factor will be 1.0. If the computed charge factor is less than 0.067, the charge factor will be 0.067.

(4) The load factor is defined as the maximum of:

$$\frac{\text{Payload length, m.}}{18.29\ \text{m}} \quad \text{or} \quad \frac{\text{Payload weight, kg}}{\text{Shuttle lift capability, kg}}$$

where: (i) Payload length is as defined in § 1214.102(j);

(ii) Payload weight is as defined in § 1214.102(k);

(iii) For those payloads for which NASA has reviewed and accepted a NASA Form 1628 (Request for Flight Assignment) and received earnest money (if required) prior to (insert date of publication in **Federal Register**), the Shuttle lift capability for a shared flight, standard launch will be 29,478 kg. For all other payloads, the lift capability for a shared flight, standard launch will be 21,542 kg.

(h) *Payment schedule*—(1) *Earnest money.* Earnest money in the amount of $100,000 per payload will be paid to NASA by the customer. The earnest money will be paid at the time of submission of a NASA Form 1628, and will be applied to the first payment made by the customer toward the standard flight price, or will be retained by NASA unless NASA determines that the payload does not meet the eligibility criteria referenced in § 1214.101.

(2) *Payment schedule for standard services.* (i) Payment for standard services will be made in accordance with the following schedule:

Number of months before launch flight is scheduled	Percent of price due							
	At time of scheduling	Months prior to scheduled launch date						
		33	24	18	12	6	3	Total
33 or more		10	10	15	25	25	15	100
24-32	11		10	15	25	25	15	101
18-23	23			15	25	25	15	103
12-17	42				25	25	15	107

Number of months before launch flight is scheduled	Percent of price due							
	At time of scheduling	Months prior to scheduled launch date						
		33	24	18	12	6	3	Total
6–11*	73					25	15	113
3–5*	107						15	122
Less than 3*	122							122

*Additional charges pursuant to § 1214.103(h)(2)(ii) also may apply.

(ii) Unless otherwise agreed to by NASA, for purposes of the payment schedule of § 1214.103(h)(2)(i), the percent of price due at the time of scheduling will be the cumulative amount due at the time of:

(A) NASA's initial commitment to the schedule of a newly scheduled payload;

(B) A customer's requested rescheduling of a payload such that it will be launched at an earlier date; or

(C) Rescheduling of a payload postponed at the request of the customer or caused by the customer.

(iii) If the time from a customer's request for initial scheduling or rescheduling of a payload is less than 1 year from the launch date being requested, and NASA can accommodate the request, NASA may also charge the customer any estimated additional cost of providing standard services on such a shortened schedule.

(iv) Normally no charges for standard services will be made after the flight, except for a final adjustment for escalation.

(i) *Late payment fees.* Customers who do not meet the payment schedule defined in § 1214.103(h) will be subject to a late payment fee established by NASA in the launch agreement.

§ 1214.104 Reimbursement for optional services.

(a) *Pricing basis.* To the extent practical, optional services will be provided on a fixed-price or fixed-rate basis. If this is not practical, the price will be on a governmental cost basis; i.e., the actual cost or in certain cases the estimated actual costs.

(b) *Escalation of payments.* All payments for optional services subject to escalation will be escalated in accordance with the provisions of § 1214.103(d).

(c) *Schedules of payments.* NASA will establish payment schedules for optional services and will incorporate those schedules in the launch agreement at the time a particular optional service is agreed to between the customer and NASA.

(D) *Late payment fees.* Customers who do not make payments by the due dates defined by NASA will be subject to a late payment fee established by NASA in the launch agreement.

§ 1214.105 Apportionment and/or assignment of services.

(a) Subject to NASA approval, a customer may apportion and/or assign Shuttle services to third parties within the payload. No apportionment and/or assignment of Shuttle services may take place outside the payload.

(b) Integration of apportioned/assigned payload elements within the payload is the responsibility of the customer. Any NASA assistance in such integration will be provided as an optional service.

(c) Customers intending to apportion and/or assign services will so designate at the time the launch agreement is signed.

§ 1214.106 Minor delays.

NASA will attempt to accommodate customer requested minor launch delays. Such delays will normally be requested just prior to launch. Except for potential optional service charges, delays up to 72 hours can normally be accommodated at no charge. This 72-hour period is shared by all customers on a particular flight. The basis of proration will be established in the launch agreement. Delays beyond 72 hours will require NASA's approval and will result in an additional charge as established in the launch agreement.

§ 1214.107 Postponement.

(a) Provisions of this paragraph apply to postponements requested or caused by the customer.

(b) A customer postponing the flight of a payload will pay a postponement fee to NASA. The fee will be computed as a percentage of the customer's Shuttle standard flight price and will be based on the table below.

Months before scheduled launch date when postponement occurs	Postponement fee, percent of standard flight price	
	Dedicated flights	Shared flights
More than 33	0	0
18 or more but less than or equal to 33 —1st postponement	0	0
—2nd and subsequent	5	5
17 or more but less than 18	6	9
16 or more but less than 17	7	13
15 or more but less than 16	8	17
14 or more but less than 15	10	20
13 or more but less than 14	11	24
12 or more but less than 13	12	28
11 or more but less than 12	13	32
10 or more but less than 11	14	36
9 or more but less than 10	15	40
8 or more but less than 9	17	43
7 or more but less than 8	18	47
6 or more but less than 7	19	51
Less than 6	20	55

(c) If at any point, a customer postponement results in a launch date more than 12 months later than the original scheduled launch date, the standard flight price for the customer's payload may be adjusted by NASA to reflect any new standard flight price applicable at the time of the postponed launch, if such new price is higher than the originally contracted price.

(d) The payment schedule for postponed flights will be as defined in § 1214.103(h)(2).

(e) Customers postponing the flight of a payload may also be subject to new or additional charges for optional services.

§ 1214.108 Termination.

(a) Customers terminating the launch of a payload will pay a termination fee for standard services to NASA.

(1) The termination fee for dedicated flights will be computed as a percentage of the Shuttle standard flight price and will be based on the table below.

Months before scheduled launch date when termination occurs	Termination fee, percent of Shuttle standard flight price
18 or more	10
17 or more but less than 18	11
16 or more but less than 17	12
15 or more but less than 16	13
14 or more but less than 15	15
13 or more but less than 14	16
12 or more but less than 13	17
11 or more but less than 12	18
10 or more but less than 11	19
9 or more but less than 10	20
8 or more but less than 9	22
7 or more but less than 8	23
6 or more but less than 7	24
Less than 6	25

(2) The termination fee for shared flights will be the sum of all payments previously paid or due for the standard flight price, as defined in § 1214.103(h)(2), at the time of termination.

(b) NASA may establish, in the launch agreement, certain conditions under which the customer may terminate a payload launch with reduced termination fees if NASA delays the launch of the customer's payload for an extended period.

(c) Customers terminating the flight of a payload may also be subject to new or additional charges for optional services.

§ 1214.109 Scheduling.

(a) *Establishment of a launch date.* (1) NASA will assign a tentative launch date for a payload only after NASA's receipt, review and acceptance of a customer-submitted NASA Form 1628 requesting flight assignment and NASA's receipt of the customer's earnest money.

(2) NASA's confirmation of a particular launch date will be at the time a launch services agreement is signed, normally not later than 36 months prior to the desired launch date.

(b) *NASA changes to launch date.* NASA will attempt to maintain the customer's launch date as long as the customer's obligations, as established by NASA, are met. However, NASA may revise the launch date under those circumstances contained in the launch agreement. If practical, NASA launch date changes will be in consultation with the customer; however, NASA reserves the unilateral right to make decisions with regard to launch schedules.

(c) *Payload delivery.* NASA, in consultation with the customer, will establish a date for payload delivery to the launch site.

(d) *Reflight scheduling.* NASA will attempt to schedule a payload reflight at the earliest opportunity, but normally no earlier than 14 months after a determination is made that a customer is entitled to, and in fact requests a reflight.

§ 1214.110 Reflight.

(a) NASA will provide a reflight of a customer's payload under conditions defined in the launch agreement. The standard flight price for reflights will be based on NASA's marginal cost as defined in § 1214.102(f). Reflights only apply to dedicated flights and those shared-flight payloads that can be accommodated on a standard launch as defined in § 1214.117.

(b) Reflights as defined in this § 1214.110 apply only to the same payload involved in the launch that necessitated the reflight, or to an essentially identical payload with essentially identical integration and flight operations requirements.

§ 1214.111 Rendezvous services.

(a) A rendezvous mission involves the rendezvous of the Space Shuttle orbiter with an orbiting spacecraft for one or more of the following purposes:

(1) Retrieval and return to Earth of the orbiting spacecraft (or part thereof), including a spacecraft deployed earlier on the same Space Shuttle flight.

(2) Exchange of a spacecraft (or part thereof) delivered to orbit on a particular Space Shuttle mission for an already orbiting spacecraft (or part thereof) and return of already orbiting spacecraft to Earth.

(3) Revisit of an orbiting spacecraft for purposes such as resupply, repair, reboost or inspection.

(b) Mission operational requirements and associated optional service charges and conditions for both dedicated and shared flight rendezvous services will be negotiated on a case-by-case basis.

§ 1214.112 Patent, data and information matters.

(a) *Patent and data rights.* NASA will not acquire rights to inventions, patents or proprietary data which may be used in, or arise from, activities for which a customer has reimbursed NASA under the policies set forth herein. However, in certain instances in which the NASA Administrator has determined that activities may have a significant impact on the public health, safety or welfare, NASA may obtain assurances from the customer that the results will be made available to the public on terms and conditions reasonable under the circumstances.

(b) *Information.* All customers will be required to furnish NASA with sufficient information to ensure Shuttle safety and NASA's and the U.S. Government's continued compliance with law, published policy and the U.S. Government's obligations.

§ 1214.113 Allocation of risk.

The U.S. Government will assume no risk for damages to the customer resulting from certain activities conducted under the launch agreement or to third parties resulting from launch related activities or on-orbit operations. The customer will be required to agree to be bound by a cross-waiver of liability among the customer, other customers, related entities and NASA for all activities under the launch agreement. The customer will also be required to purchase third-party liability insurance covering launch and on-orbit operations in an amount deemed appropriate by NASA.

§ 1214.114 Provision of services.

NASA will provide, solely at its discretion, services to the extent consistent with U.S. obligations, law, policy and capability.

§ 1214.115 Standard services.

Standard services for the Space Shuttle are generically defined in NASA document NSTS 07700, Volume XIV. The standard services to be provided for a specific payload will be agreed to between NASA and the customer in the launch agreement and associated payload integration documentation. Typical standard services include the following for each customer.

(a) A standard launch that meets the criteria established in § 1214.117.

(b) Transportation of the customer's payload in the orbiter cargo bay in a location selected by NASA.

(c) One day of single-shift, on-orbit mission operations.

(d) A five-person flight crew: commander, pilot and three mission specialists.

(e) Orbiter flight planning services.

(f) One day of transmission of payload data to compatible receiving stations via an Independent Payload Data Stream. (Subject to availability, NASA may make excess orbiter instrumentation downlink capability available to payloads at no additional charge.)

(g) Deployment of a free flyer, provided the payload meets all the conditions stated in § 1214.118.

(h) NASA support of selected payload design reviews.

(i) Prelaunch payload installation, verification and orbiter compatibility testing.

(j) NASA payload safety reviews.

§ 1214.116 Typical optional services.

Typical optional services that may be provided by NASA include the

following, and will be further defined and limited in payload integration documentation agreed upon by NASA and the customer.

(a) Use of Extended Duration Orbiter (EDO) capability or other mission kits to extend basic orbiter capability.

(b) Extravehicular activity (EVA) services.

(c) Transportation to orbit of all or a part of the customer's payload in other than the orbiter cargo bay.

(d) Unique payload/orbiter integration and test.

(e) Payload mission planning services, other than for launch, deployment and entry phases.

(f) Additional time on orbit.

(g) Payload data processing.

(h) Flight of payload specialists.

(i) Transmission of payload data via an Independent Payload Data Stream during additional time on orbit.

(j) Transmission of payload data via a Direct Data Stream.

§ 1214.117 Launch and orbit parameters for a standard launch.

To qualify for the standard flight price, all payloads must meet the following launch criteria:

(a) For dedicated flights:

(1) Launch from Kennedy Space Center (KSC) into the customer's choice of two standard mission orbits: 160 NM circular orbit, 28.5° inclination (nominal), or 160 NM circular orbit, 57° inclination (nominal).

(2) Launch on a date selected by NASA within the scheduling constraints specified in the launch agreement.

(3) Launch at a time, selected by NASA, from a launch window of not less than 1 hour (a more restrictive launch window may be provided as an optional service).

(b) For shared flights from KSC to the standard mission orbit of 160 NM circular orbit, 28.5° inclination (nominal):

(1) Launch on a date selected by NASA within the scheduling constraints specified in the launch agreement.

(2) Launch at any time of day, selected by NASA.

§ 1214.118 Special criteria for deployable payloads.

To qualify for the standard flight price, deployable payloads must meet certain criteria in terms of time of day of launch, and other factors. These criteria will be specified in the launch agreement and associated payload integration documentation.

§ 1214.119 Spacelab payloads.

(a) *Special provisions.* This § 1214.119 establishes the special provisions for Spacelab services provided to Space Shuttle customers. Where designated, provisions of this § 1214.119 supersede those of other portions of this document. The following five types of Spacelab flights are available to accommodate payload requirements:

(1) Dedicated-Shuttle Spacelab flight (Ref. § 1214.119(d)(3)).

(2) Dedicated-pallet flight (Ref. § 1214.119(d)(4)).

(3) Dedicated-FMDM/MPESS (flexible multiplexer-demultiplexer/multipurpose experiment support structure) flight (Ref. § 1214.119(d)(4)).

(4) Complete-pallet flight (Ref. § 1214.119(d)(5)).

(5) Shared-element flight (Ref. § 1214.119(d)(6)).

(b) *Definitions.*—(1) *Spacelab elements.* Pallets (3-meter segments), pressurized modules (long or short), and the FMDM/MPESS (1-meter cross-bay structure), all as maintained in the NASA-approved Spacelab configuration.

(2) *Spacelab standard flight price.* The price for standard services provided to Spacelab customers. If a customer elects not to use a portion of the standard services, the Spacelab standard flight price will not be affected. The Spacelab standard flight price is a pro rata share of:

(i) The dedicated flight price as defined in § 1214.102(c);

(ii) The standard price for use of the selected Spacelab elements; and

(iii) For complete-pallet and shared-element flights:

(A) The price for 6 extra days on orbit; and

(B) The price for 7 days of second-shift operation.

(c) *Mandatory use of dedicated-Shuttle Spacelab flight.* (1) The customer will be required to fly under the provisions of § 1214.119(d)(3), if the customer requires exclusive use of any of the following:

(i) Pressurized module (long or short).

(ii) Three pallets in the "1+1+1" configuration.

(iii) Four pallets in the "2+2" configuration.

(2) In the cases cited in paragraph (1)(i) of this section, if the customer requests, NASA will attempt to find compatible sharees to fly with the customer's payload. If NASA is successful, the customer's Shuttle standard flight price will be the greater of:

(i) The dedicated flight price less reimbursements from sharees actually flown; or

(ii) The computed Shuttle shared-flight price for the customer's Spacelab payload.

(d) *Reimbursement for standard services.* (1) Customers will reimburse NASA an amount equal to the Spacelab standard flight price computed according to the following provisions:

(2) *Earnest money.* For those customers required to pay earnest money in accordance with § 1214.103(h)(1), the total earnest money payment per payload for Spacelab payloads (including Shuttle services) will be either $150,000 or 10 percent of the customer's estimated Spacelab standard flight price, whichever is less.

(3) *Dedicated-Shuttle Spacelab flight.* (i) A dedicated-Shuttle Spacelab flight is a Shuttle flight flown for a single customer who is entitled to select the Spacelab elements used on the flight.

(ii) In addition to the standard services listed in § 1214.119(j), the following standard services are provided to customers of dedicated-Shuttle Spacelab flights and form the basis for the Spacelab standard flight price:

(A) Use of the full standard services of the Shuttle and the Spacelab elements selected.

(B) One day of one-shift on-orbit operations.

(C) Standard mission destinations consistent with launch criteria as defined in § 1214.117.

(D) The available payload operations time of two NASA-furnished mission specialists.

(iii) Customers contracting for a dedicated-Shuttle Spacelab flight will reimburse NASA for standard services an amount that is the sum of:

(A) The dedicated flight price as defined in § 1214.102(c); and

(B) The price for the use of all Spacelab elements used (including all necessary mission-independent Spacelab equipment).

(4) *Dedicated 3-meter pallets and dedicated FMDM/MPESS.* (i) A dedicated pallet (or a dedicated FMDM/MPESS) is one that is flown for a single customer and includes all Spacelab hardware necessary to permit it to be flown on any shared flight as an autonomous payload (e.g., a dedicated 3-meter pallet may either be supplied with its own exclusive igloo or be flown without an igloo, if it requires only standard Shuttle services).

(ii) In addition to a pro rata share of the standard services listed in § 1214.119(j), the following standard services are provided to customers of dedicated pallets (or dedicated FMDM/MPESS) and form the basis for establishing the Spacelab standard flight price:

(A) A pro rata share of the standard services listed in § 1214.115, where the basis for proration is the customer's Shuttle load factor as defined in § 1214.119(l)(4)(i) for dedicated pallets and in § 1214.119(l)(5)(ii) for a dedicated FMDM/MPESS.

(B) The exclusive services of the pallet (or FMDM/MPESS) and all Spacelab hardware provided to support the pallet (or FMDM/MPESS).

(C) One day of one-shift on-orbit operations.

(D) Launch on a shared standard Shuttle flight as defined in § 1214.117.

(E) A pro rata share of the on-orbit payload operations time of two NASA-furnished mission specialists, where the basis of proration will be the customer's Shuttle load factor.

(iii) Customers contracting for a dedicated-pallet (or FMDM/MPESS) flight will reimburse NASA for standard services an amount that is the sum of:

(A) The product of the customer's Shuttle charge factor and the dedicated flight price as defined in § 1214.102(c); and

(B) The price for the use of the pallet (or FMDM/MPESS) selected (including all necessary mission-independent Spacelab equipment).

(5) *Complete pallet.* (i) A complete Spacelab pallet is one that is flown for a single customer, but flies with other Spacelab elements on a NASA or NASA-designated Spacelab flight and shares the common standard Spacelab services (e.g., shares an igloo with other pallets).

(ii) In addition to a pro rata share of the standard services listed in § 1214.119(j), the following standard services are provided to customers of complete pallets and form the basis for the Spacelab standard flight price:

(A) The pallet's pro rata share of standard services listed in § 1214.115, where the basis of proration will be the customer's Shuttle load factor as defined in § 1214.119(l)(6)(i).

(B) A pro rata share of 7 days of two-shift on-orbit operations, where the basis of proration will be the customer's Shuttle load factor.

(C) Mission destination selected by NASA in consultation with the customer.

(D) Assignment, with the customer's concurrence, to a Spacelab flight designated by NASA.

(E) Launch date established by NASA.

(F) A pro rata share of the on-orbit payload operations time of two NASA-furnished mission specialists and two payload specialists, where the basis of proration will be the customer's Shuttle load factor.

(G) Use of the entire volume above a pallet.

(iii) Customers contracting for complete-pallet flights will reimburse NASA for standard services an amount which is the sum of:

(A) The product of the customer's Shuttle charge factor and the sum of:

(*1*) The dedicated flight price as defined in § 1214.102(c).

(*2*) The charge for 6 extra days of one-shift on-orbit operations.

(*3*) The standard price for additional services required to support a second shift of on-orbit operations for 7 days.

(B) The price for the use of a complete pallet, including all necessary mission-independent Spacelab equipment.

(6) *Shared element.* (i) A shared element is a Spacelab pallet, FMDM/MPESS, or module that:

(A) May be shared by two or more customers on a NASA-designated Spacelab flight; and

(B) Shares common standard services with other Spacelab elements on the same flight.

(ii) In addition to a pro rata share of the standard services listed in § 1214.119(j), the following standard services are provided to customers of shared elements and form the basis for the Spacelab standard flight price:

(A) For shared pallets, a pro rata share of the standard services provided by a pallet. The basis of proration will be the customer's Spacelab load fraction as defined in § 1214.119(l)(7)(i)(A).

(B) For shared modules, a pro rata share of the standard services provided by a long module flown on a dedicated-Shuttle Spacelab flight. The basis of proration will be the customer's Spacelab load fraction as defined in § 1214.119(l)(7)(i)(B). The type of pressurized module actually used to meet a customer's requirement for a shared module will be determined by NASA subsequent to launch agreement negotiations.

(C) A pro rata share of the element's share of standard services listed in § 1214.115, where the basis for proration will be the customer's Spacelab load fraction.

(D) A pro rata share of 7 days of two-shift on-orbit operations, where the basis of proration will be the customer's Shuttle load factor as defined in § 1214.119(l)(7)(i).

(E) Mission destination selected by NASA in consultation with the customer.

(F) Assignment, with the customer's concurrence, to a Spacelab flight designated by NASA.

(G) Launch date established by NASA.

(H) A pro rata share of the on-orbit operations time of two NASA-furnished mission specialists, where the basis of proration will be the customer's Shuttle load factor.

(iii) Customers contracting for shared-element flights will reimburse NASA for Standard services an amount that is the sum of:

(A) The product of the customer's Shuttle charge factor and the sum of:

(*1*) The dedicated flight price as defined in § 1214.102(c);

(*2*) The charge for 6 extra days of one-shift on-orbit operations; and

(*3*) The standard price for additional services required to support a second shift of on-orbit operations for 7 days.

(B) The product of the customer's element charge factor and the price for the use of the Spacelab element being used, including all necessary mission-independent Spacelab equipment.

(e) *Minor delays.* The minor delay provisions of § 1214.106 will apply only to those Spacelab payloads whose Shuttle load factor is equal to or greater than 0.05.

(f) *Postponement and termination.* (1) A customer may postpone the flight of a Spacelab payload one time with no additional charge if postponement occurs more than 18 months before the scheduled launch date.

(2) Postponement or termination fees for Spacelab payloads will consist of the sum of:

(i) A fee for postponement or termination of the Shuttle launch.

(ii) A fee for use of the Spacelab elements.

(3) For Shuttle launch postponement and termination fee customers will be governed by the provisions of § 1214.107 or § 1214.108, as appropriate.

(4) The postponement and termination fees for use of the Spacelab elements are computed as a percentage of the customer's price for use of the Spacelab elements and will be based on the table below. When postponement or termination occurs less than 18 months before launch, the fees will be computed by linear interpolation using the points provided.

Months before scheduled launch date when postponement or termination occurs	Fee for use of Spacelab element(s), percent of price for use of element(s)	
	Postponement	Termination
Dedicated Flights, Dedicated Elements, and Dedicated FMDM/MPESS		
18 or more	5	10
12	14	20
3	60	85
0	75	100
Complete Pallets and Shared Elements		
18 or more	5	10
12	18	80
9	32	95
8 or less	95	100

(5) At the time of signing of the launch agreement, NASA will define a payload removal cutoff date (relative to the launch date) for each Spacelab payload to be flown on a shared flight. A customer may still postpone or terminate a flight after the payload's cutoff date; however, NASA will not be required to remove the payload before flight.

(6) Customers postponing or terminating the flight of a payload may also be subject to new or additional charges for optional services associated with Shuttle or Spacelab support provided by NASA.

(g) *Spacelab reflight.* (1) For Spacelab payloads, the provisions of § 1214.110 apply.

(h) *Premature termination of Spacelab flights.* If a dedicated-Shuttle Spacelab flight, a dedicated-pallet flight or dedicated-FMDM/MPESS flight is prematurely terminated, NASA will refund the optional services charges for planned, but unused, extra days on orbit. If a complete-pallet or shared-element flight is prematurely terminated, NASA will refund a pro rata share of the charges for planned, but unused, extra days on orbit to customers whose payload operations are, in NASA's judgment, adversely affected by such premature termination. The basis for proration will be the customer's Shuttle load factor.

(i) *Integration of payloads.* (1) The customer will bear the cost of the following typical Spacelab-payload mission management functions:

(i) Performing analytical design of the mission.

(ii) Generating mission requirements and their documentation in the Payload Integration Plan (PIP).

(iii) Providing mission-unique training and payload specialists (if appropriate).

(iv) Physically integrating experiments into racks and/or onto pallets.

(v) Providing payload-unique software for use during ground processing, on orbit or in POCC operations.

(vi) Providing operation support.

(vii) Ensuring the mission is safe.

(2) All physical integration (and de-integration) of payloads into racks and/or onto pallets will normally be performed at KSC by NASA. When the customer provides Spacelab elements, these physical integration activities may be done by the customer at a location chosen by the customer.

(3) Except for the restrictions noted in paragraph (i)(2) of this section, and the implementation of paragraph (i)(1)(vii), customers contracting for dedicated-Shuttle and dedicated-pallet flights may perform the Spacelab-payload mission management functions defined in paragraph (i)(1) of this section. NASA will assist customers in the performance of these functions, if requested. Charges for this service will be based on estimated actual costs, or actual costs where appropriate, and will be in addition to the price for standard services.

(4) For complete pallets or shared elements, NASA will normally perform the Spacelab-payload mission management functions listed in paragraph (i)(1) of this section. Charges for this service will be based on estimated actual costs, or actual costs where appropriate, and will be in addition to the price for standard services.

(5) Integration of payload entities mentioned in paragraphs (i)(2) through (i)(4) of this section with NASA-furnished Spacelab support systems and with the Shuttle will be performed by NASA as a standard service for all payloads flown on customer-furnished Spacelab elements. Customers will be available to participate as required by NASA in these levels of integration. Customer equipment will be operated only to the extent necessary for interface verification. Customers requiring additional payload operation after delivery of the payload to NASA will negotiate such operation as an optional service.

(j) *Common standard services for Spacelab payloads.* The following standard services are common to all Spacelab flights:

(1) Use of Shuttle [1] and Spacelab hardware.

(2) Spacelab interface analysis.

(3) A five-person NASA flight crew consisting of commander, pilot and three mission specialists.

(4) Accommodations for a five-person flight crew.

(5) Prelaunch integration and interface verification of preassembled racks and pallets (Levels III, II and I for NASA-furnished Spacelab hardware; Level I only for customer-furnished Spacelab hardware).

(6) Shuttle [1] and Spacelab flight planning.

(7) Payload electrical power.

(8) Payload environmental control.

(9) On-board data acquisition and processing services.

(10) One day of transmission of payload data to compatible receiving stations via an Independent Payload Data Stream. (Subject to availability NASA may make excess orbiter instrumentation downlink capability available to payloads at no additional charge.) [1]

(11) Use of NASA-furnished standard payload monitoring and control facilities.

(12) Voice communications between on-orbit flight personnel operating the customer's payload and a NASA-designated payload monitoring and control facility.

(13) NASA payload safety review.[1]

(14) NASA support of payload design reviews.[1]

(k) *Typical optional services for Spacelab payloads.* The following are typical optional Spacelab services.

(1) Use of special payload support equipment, e.g., instrument pointing system.

(2) Nonstandard mission destination.

(3) Additional time on orbit.

[1] Typical standard Shuttle services repeated for clarity.

(4) Mission-independent training, use of, and accommodations for all flight personnel in excess of five.

(5) Mission-dependent training of all NASA-furnished personnel and backups.

(6) Analytical and/or hands-on integration (and de-integration) of the customer's payload into racks and/or onto pallets.

(7) Unique integration or testing requirements.

(8) Additional resources beyond the customer's pro rata share.

(9) Additional experiment time or crew time beyond the customer's pro rata share.

(10) Special access to and/or operation of payloads.

(11) Customer-unique requirements for: software development for the Command and Data Management Subsystem (CDMS) onboard computer, configuration of the Payload Operations Control Center (POCC) and/or CDMS used during KSC ground processing.

(12) Extravehicular Activity (EVA) services.

(13) Payload flight planning services.

(14) Transmission of Spacelab data contained in the Shuttle OI telemetry link to a location other than a NASA-designated monitoring and control facility.

(15) Transmission of payload data via an Independent Payload Data Stream during additional time on orbit.

(16) Transmission of payload data via a Direct Data Stream.

(17) Level III/II integration of customer-furnished Spacelab hardware.

(l) *Computation of sharing and pricing parameters*—(1) *General.*

(i) Computational procedures as contained in the following subparagraphs will be applied as indicated. The procedure for computing Shuttle load factor, charge factor and flight price for Spacelab payloads replaces the procedure contained in § 1214.103.

(ii) Shuttle charge factors as derived herein apply to payloads meeting the launch and orbit criteria established in § 1214.117. Customers will reimburse NASA an optional services fee for flights to nonstandard destinations.

(iii) The customer's total Shuttle charge factor will be the sum of the Shuttle charge factors for the customer's individual (dedicated, complete or shared) elements, with the limitation that the customer's Shuttle charge factor will not exceed 1.0.

(iv) Customers contracting for pallet-only payloads are entitled to locate minimal controls as agreed to by NASA in a pressurized area to be designated by NASA. There is no additional charge for this service.

(v) NASA will, at its discretion, adjust, up or down, the load factors and load fractions calculated according to the procedures defined in this section. Adjustments will be made for special space or weight requirements, which include, but not limited to:

(A) Sight clearances, orientation or placement limits.

(B) Clearances for movable payloads.

(C) Unusual access clearance requirements.

(D) Clearances extending beyond the bounds of the normal element envelope.

(E) Extraordinary shapes.

The adjusted values will be used as the basis for computing charge factors and prorating services.

(2) *Definitions used in computations.* (i) L_c = Chargeable payload length, m. The total length in the cargo bay occupied by the customer's experiment and the Spacelab element(s) used to carry it.

(ii) W_c = The weight, kg, of the customer's payload and the customer's pro rata share of the weight of NASA mission-peculiar equipment carried to meet the customer's needs.

(3) *Dedicated-Shuttle Spacelab flight (1-day mission).* The total reimbursement is as defined in § 1214.119(d)(3)(iii).

(4) *Dedicated-pallet flight (1-day mission).* (i) The Shuttle load factors, charge factors and nominal payload capacities for dedicated-pallet flights are shown in the table below. Subject to other Shuttle Spacelab structural limits, customers are entitled to use the payload weight capability of the pallets as indicated in the table. Payload weights in excess of those shown are subject to NASA approval and may entail optional services charges.

No. of Pallets	Load Factor		Charge Factor		Nominal Payload Capacity, kg	
	With Igloo	FMDM Configuration	With Igloo	FMDM Configuration	With Igloo	FMDM Configuration
1	0.228	0.189	0.305	0.252	2,325	2,950
2	0.392	NA	0.523	NA	4,470	NA
3-pallet train*	0.556	NA	0.742	NA	4,435	NA
2+1 config	0.594	NA	0.792	NA	7,750	NA

*Three pallets requiring the "1+1+1" configuration will be flown on a dedicated-flight basis [See § 1214.119(c)(1)].

(ii) *Total reimbursement.* The customer's total reimbursement is as defined in § 1214.119(d)(4)(iii).

(5) *Dedicated FMDM/MPESS flight (1-day mission)*—(i) *Shuttle charge factor.* The Shuttle charge factor for dedicated FMDM/MPESS flights is defined as:

$$\frac{\text{Shuttle Load Factor}}{0.75}$$

(ii) *Shuttle load factor.* (A) The Shuttle load factor is defined as the maximum of:

$$\frac{L_c}{18.29\ \text{m}}$$

or

$$\frac{W_c + 767}{21{,}542\ \text{kg}}$$

(B) The minimum value of L_c is based on the element length, plus clearances, and is 1.18 m.

(iii) *Total reimbursement.* The customer's total reimbursement is as defined in § 1214.119(d)(4)(iii).

(6) *Complete pallets (7-day mission).* (i) The Shuttle load factor and charge factor for a complete pallet are 0.198 and 0.228, respectively, and its payload weight capability is 2,583 kg. Subject to other Shuttle or Spacelab structural limits,

customers are entitled to use this payload weight capability. Payload weight in excess of 2,583 kg is subject to NASA approval and may entail optional service charges.

(ii) *Total reimbursement.* The customer's total reimbursement is as defined in § 1214.119(d)(5)(iii).

(7) *Shared elements (7-day mission).*

(i) *Spacelab load fractions and Shuttle load factors.*

(A) *Pallet.* Spacelab load fraction is the greater of:

$$\frac{W_c}{2{,}583\ \text{kg}}$$

or

$$\frac{\text{Payload volume, m}^3}{15\ \text{m}^3}$$

Shuttle load factor is the greater of:

$$\frac{W_c}{13{,}045\ \text{kg}}$$

or

$$\frac{\text{Payload volume, m}^3}{76\ \text{m}^3}$$

(B) *Pressurized module.* Spacelab load fraction and Shuttle load factor are identical and are the greater of:

$$\frac{W_c}{4{,}319\ \text{kg}}$$

or

$$\frac{2 \times (\text{Experiment volume}) + \text{Storage volume, m}^3}{40\ \text{m}^3}$$

(ii) *Shuttle charge factors and element charge factors for pressurized modules.* Shuttle charge factors and element charge factors are identical and are defined as follows:

If the Spacelab load fraction (and Shuttle load factor) is:	The element charge factor and Shuttle charge factor will be:
Less than 0.00435	0.005
0.00435 to 0.87	Spacelab load fraction divided by 0.87
Greater than 0.87	1.0

(iii) *Element charge factors for shared pallets.*

If the Spacelab load fraction is:	The element charge factor will be:
Less than 0.0189	0.0218
0.0189 to 0.87	Spacelab load fraction divided by 0.87
Greater than 0.87	1.0

(iv) *Shuttle charge factors for shared pallets.*

If the Shuttle load factor is:	The Shuttle charge factor will be:
Less than 0.00375	0.005
0.00375 to 0.75	Shuttle load factor divided by 0.75
Greater than 0.75	1.0

(v) *Total reimbursement.*

(A) The customer's total reimbursement is as defined in § 1214.119(d)(6)(iii).

(B) If a customer contracts for portions of more than one element, the charges for the use of the elements will apply individually to each element used.

(vi) *Pressurized module experiment volume.* Experiment volume in the pressurized module is defined to be the sum of the customer's payload volume in racks and in the center aisle.

(A) Rack volume is defined relative to basic Air Transportation Rack (ATR) configurations. The customer's rack volume will be defined as the volume of one or more rectangular parallelepipeds (rectangular-sided boxes) which totally enclose the cuss payload. Width dimensions will be either 45.1 or 94.0 centimeters. Height dimensions will be integral multiples of 4.45 centimeters. Depth dimensions will be 61.2 or 40.2 centimeters.

(B) Center aisle space volume is defined as the volume of a rectangular parallelepiped which totally encloses the customer's payload. No edge of the parallelepiped will be less than 30 centimeters in length.

(vii) *Pressurized module storage volume.* Storage volume in the pressurized module is defined as the volume of one or more rectangular parallelepipeds enclosing the customer's stowed payload. No edge of the parallelepiped(s) will be less than 30 centimeters in length.

(viii) *Pallet payload volume.* Volume of the customer's pallet-mounted payload is defined as the volume of a rectangular parallelepiped enclosing the pallet payload and customer-dictated mounting hardware. No edge of the parallelepiped will be less than 30 centimeters in length.

Dated: December 31, 1991.

Richard H. Truly,

Administrator.

[FR Doc. 92-2574 Filed 2-5-92; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 768, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 785, 786, 790, 791, and 799

[Docket No. 911210-1310]

Revisions to the Export Administration Regulations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) (15 CFR parts 730-799) to conform with the numbering system and nomenclature used in the new Commerce Control List (Supplement No. 1 to § 799.1 of the EAR) that was published on August 29, 1991 (56 FR 42824). This rule also eliminates General License G-COCOM, which was of marginal utility.

This rule also revises the EAR, particularly special country and commodity based controls, to reflect changes made in the new Commerce Control List (CCL). Certain foreign policy provisions of the EAR have been rewritten to reflect the reformulation of controls on Iran and Syria detailed in the new CCL and reported to the Congress on August 28, 1991. Countries currently designated by the Secretary of State as supporting international terrorism are identified, with Iraq added and Yemen deleted. Controls on South Africa are revised to reflect decisions based on the President's directives in Executive Order 12769 of July 10, 1991.

Additional changes specific to controlled items include a definition of "supercomputers" and a change in agency jurisdiction over exports of certain civil aircraft inertial navigation equipment. Finally, the rule contains corrections to the new CCL.

DATES: This rule is effective January 1, 1992.

FOR FURTHER INFORMATION CONTACT: For questions of a general nature, contact: Charles Guernieri, Exporter Counselling Division, Bureau of Export Administration, telephone: (202) 377-4811.

For questions of a policy nature, contact: David Schlechty, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-4252.

For questions regarding the continued use of the Special License procedures, contact: Marc Kron, Special Licensing Division, telephone: (202) 377-3287.

SUPPLEMENTARY INFORMATION:

Background

On August 29, 1991, the Bureau of Export Administration (BXA) published the Commerce Control List (CCL), an entirely new list of dual use items subject to export control that is based on a totally new Industrial List developed by the Coordinating Committee on Multilateral Export Controls (COCOM). Because the CCL uses a completely new numbering system and often employs new nomenclature, many CCL references in other parts of the Export Administration Regulations (EAR) needed to be revised to conform with the new CCL. This rule revises references to various CCL entries throughout the EAR to conform with the numbering of entries in the new CCL. References to "Commodity Control List" and "Export Control Commodity Number" are changed to read "Commerce Control List" and "Export Control Classification Number", respectively. The new CCL has also required some changes in the descriptions of the Special Licensing requirements, as well as certain revisions to Supplements No. 1 and 4 to Part 773. In particular, Supplement No. 1, listing commodities excluded from special licenses, has been reformatted from an entry-specific listing to a listing of categories of goods that are not eligible for Special Licenses. Supplement No. 1 contains new computer eligibility levels for various countries based on the Composite Theoretical Performance (CTP) of the computers. CTP represents a new method of measuring computer performance, and has replaced the Processing Data Rate (PDR) method.

The new CCL includes technology and software. This has required conforming changes in part 779 that are more extensive than those made elsewhere in the EAR. Changes in part 779 include the elimination of special lists of technical data subject to control, and a revision of the Operation and Sales Data provisions to conform to the new COCOM General Technology and General Software notes (Supplement No. 2 to § 799.1).

In addition, BXA is removing General License G-COCOM, which had allowed exports to certain countries of goods identified in the CCL Advisory Notes for the People's Republic of China (China Notes). With expansion of the range of goods that can be shipped under G-DEST, GFW, and GCT, along with a reduction in the applicable China Notes, the utility of General License G-COCOM has been diminished considerably. Removing this general license will simplify the regulations without substantially restricting the options of exporters. Also, in the general license area, General License GLV has been amended to clarify that the People's Republic of China is not an eligible country. Previously, the exclusion of China was noted in each CCL entry.

The new CCL includes revised entries for controls on exports to Iran and Syria. Controls directed toward these countries had relied extensively on reference to COCOM controlled items. With the recent changes in COCOM controls, a number of items that had been controlled by reference no longer appear as COCOM controlled items. Absent specific regulatory action, implementation of the new COCOM Industrial List would have reduced substantially the list of items controlled to Iran and Syria for foreign policy reasons. New control entries for these two countries were included in the new CCL. This rule revises § 785.4(d) to reflect this reformulation of the controls applicable to each country. While there is substantial overlap between items previously controlled and items currently controlled to Iran and Syria, in a few instances controls have been expanded or imposed. Preexisting contracts involving items added to controls by this rule will be considered on a case-by-case basis in the licensing process.

On September 13, 1990, the Secretary of State published a list of countries designated as supporting international terrorism (55 FR 37793). That list included North Korea, Cuba, Libya, Iran, Iraq, and Syria. This rule adds a definition of "countries supporting international terrorism" to § 770.2, deletes references to the People's Democratic Republic of Yemen in § 785.4(d) and elsewhere, and adds a new § 785.4(e) on Iraq.

On July 10, 1991, President Bush issued Executive Order 12769 (56 FR 31855, July 12, 1991) concerning sanctions imposed under the Comprehensive Anti-Apartheid Act (CAAA). The President concluded that the Government of South Africa had taken all of the steps specified in section 311(a) of the CAAA, thereby permitting termination of the sanctions specified in title III of the CAAA (Pub. L. 99-440 of October 2, 1986, 22 U.S.C. 5001 *et seq.*). Consistent with the President's conclusions, BXA is amending the EAR as follows:

1. Controls on export of computers and software, and on goods and data for manufacturing or servicing computers, to entities identified as enforcing apartheid are removed. Therefore, validated license requirements for exports to government consignees, other than military and police, are now the same as for shipments to non-government parties. The general embargo on all exports to the military and police remains in effect.

2. The special written assurances for technical data and certifications for commodities are no longer required for computer exports to government entities. Assurances and certifications required for national security and other reasons, and assurances and certifications involving the police and military, remain in effect.

3. Controls on export of crude oil and petroleum products by any person subject to the jurisdiction of the United States are removed. In addition, General Licenses GLV and G-NNR are once more available for export of petroleum products to South Africa. Exports of crude oil remain restricted under short supply provisions of the EAR.

4. There is no longer a policy of mandatory denial for exports to South African nuclear production and utilization facilities.

5. Validated license requirements for certain exports of aircraft to South Africa are removed, except as they apply to the military and police.

Applicable entries in the CCL were revised to reflect these changes on September 1, 1991. Controls remain in effect for items controlled under the United Nations arms embargo (U.N. Security Council Resolution No. 1418 of December 13, 1977), as described in Supplement No. 2 to Part 779. This rule reinstates a CCL entry (2B85) for certain ammunition production equipment, reflected until 1989 under 5399G.

This rule provides a definition of "supercomputers". This definition was the subject of two previous proposed rules (53 FR 48932, 55 FR 3017). This definition takes into account the public comments received on those proposed rules, subsequent developments in supercomputer technology, and the

results of negotiations with Japan. For export control purposes, a supercomputer is any computer with a Composite Theoretical Performance (CTP) equal to or greater than 195 MTOPS (million theoretical operations per second). A separate rule will describe special safeguards that will apply to supercomputer exports depending upon the CTP of the computer and the country of destination.

The new CCL reflected the transfer of licensing jurisdiction over certain standard civil aircraft inertial navigation equipment and components to BXA from the Office of Defense Trade Controls (DTC), U.S. Department of State. BXA now has licensing jurisdiction over inertial navigation systems and specially designed components that are standard equipment in civil aircraft and are certified by the Federal Aviation Administration (FAA) as being an integral part of such aircraft, regardless of the country of destination. BXA also controls technical data for repair of equipment under its jurisdiction. To conform the EAR to this transfer, this rule amends Supplement No. 2 to part 770 to reflect changes made in the U.S. Munitions List and Interpretation 21 in Supplement No. 1 to § 799.2 (Interpretations).

This rule also makes a number of corrections to the new CCL, as follows:

(1) The Requirements section of entry 1C60 is revised to restore a note on availability of sample quantities that was inadvertently omitted from the new CCL;

(2) The heading of entry 3A93 and entry 9A91 are revised to more accurately reflect controls on Iran and Syria; and

(3) Entry 1C60 is corrected and new technology and software entries 1D60, 1E60, 1E61, and 1E70 are added to conform with the rule published on August 15, 1991 (56 FR 40494).

Following publication of the new CCL on August 29, 1991 (56 FR 42824), exporters questioned how the grace period applied to Shipper's Export Declarations (SEDs) and to previously issued licenses. Export licenses issued with old ECCNs continue to be valid until fully utilized or expired. The SED should show the ECCN used on the export license, unless the exporter uses an automated system that is tied to the new CCL so that use of old numbers would be impractical. For GLV shipments, the SED must show the new number.

The President has directed that all items contained on the COCOM dual use list be removed from the U.S. Munitions List (USML) unless significant national security interests would be jeopardized. This rule change does not incorporate the amendments that would carry out this directive.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0002, 0694–0005, 0694–0006, 0694–0007, 0694–0013, 0694–0015, 0694–0023, 0694–0047, and 0694–0048. This rule also eliminates collections of information previously approved by OMB under control numbers 0694–0024, 0694–0028, and 0694–0049. Overall, this rule will decrease burden hours for the public.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

List of Subjects

15 CFR Part 768

Imports, Penalties, Reporting and recordkeeping requirements.

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Parts 771, 772, 773, 774, 775, 776, 786, and 799

Exports, Reporting and recordkeeping requirements.

15 CFR Part 777

Administrative practice and procedure, Exports, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

15 CFR Part 778

Exports, Nuclear energy, Reporting and recordkeeping requirements.

15 CFR Part 779

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

15 CFR Part 785

Communist countries, Exports.

15 CFR Part 790

Administrative practice and procedure, Advisory committees, Exports.

15 CFR Part 791

Exports, Foreign Availability, Science and technology, Technical advisory committees.

Accordingly, parts 768, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 785, 786, 790, 791, and 799 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citations for parts 768, 773, 775, 778, 779, 785, and 791 are revised to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

2. The authority citations for parts 770, 771, 772, 774, 786, 790, and 799 are revised to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 6, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September

26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

3. The authority citation for part 776 is revised to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

4. The authority citation for part 777 is revised to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

5. The phrase "Commodity Control List" is revised to read "Commerce Control List" in the following places:

Sec.
768.1(a)(2)(i)
768.2(a)(1)
768.2(a)(9)(i), footnote no. 1
770.1(b)(1)
770.2 in the definition of "Commodity Control List" heading
770.6(a)(2)(i)
770.7(c)(2)
770.9
770.10(f)(2)
Sec.
771.2(b)(2)(ii)
771.3(a)
771.3(b) heading and text (three references)
771.4(a)(3)
771.5(a) (four references)
771.5(b)(2)
771.5(c)(1)(i)
771.5(c)(3) (four references; three in text and one in the example)
771.6(a)
771.15(c)(3)
771.16(a)
771.18(b)(1)(i)
771.22(c)(1)(ii)
771.23(c)
772.4(e) (two references)
772.11(f)(9)
773.2(b)(6)
773.2(c)(2)(iv)(B)
773.2(f)(1)
773.3(i)(2)(i)
773.5(c)
773.7(d)(1)(iv)(B)(*4*)
773.7(g)(4) in the Note following the paragraph
773.7(i)(4)
773.7(k) introductory text
773.7(k)(1)
Supplement No. 5 to Part 773, paragraph (g) introductory text
774.2(j)
775.2(b)(2)
775.2(b)(2) in the Note following the paragraph
775.2(e)(2) (two references)
775.3(a)(1)
775.3(d)(1)
775.3(h)(2)
775.3(i)(1)(i)
775.6(a)
775.6(c)(1)
775.7(a)(1) introductory text
775.7(b)(1)
775.8(a)
775.8(b)(1)
775.10(b)(1)(i)
775.10(b)(3) (two references)
776.8(a)(2)
776.8(a) concluding text
776.11(a)(2)
776.18(a)
777.6(e)(4)
778.2(a) (two references)
778.8(a)(2)
785.6(b)
786.3(i)(2)(i)
786.7 introductory text
786.7(e)(1) introductory text
786.7(e)(2) introductory text
791.1(d) in the definition of "Comparable Quality"
Supplement No. 1 to 799.2, Interpretation 10
Supplement No. 1 to 799.2, Interpretation 20, paragraph (b) introductory text

6. The phrase "Export Control Commodity Number" is revised to read "Export Control Classification Number" in the following places:

Sec.
768.1(a)(2)(i)
768.2(a)(9)(i) in footnote no. 1
770.1(b)(4)
770.2 in the definition of "Export Control Commodity Numbers" text
770.6(a)(2)(i)
770.7(c)(2)
770.9
771.4(a)(3)
771.5(e)
771.6(a)
771.15(c)(3)
771.16(a)
771.18(b)(1)(i)
771.22(c)(1)(ii) introductory text
772.11(f)(9)
Supplement No. 1 to Part 772, Item 9(a)
Supplement No. 1 to Part 772, Item 9(c)
773.3(i)(2)(i)
773.7(d)(1)(iv)(B)(*4*)
773.7(d)(1)(iv)(B)(*6*)
773.7(d)(1)(iv)(B)(*8*)
773.7(i)(4)
773.7(k) introductory text (two references)
773.7(k) concluding text
Supplement No. 5 to Part 773, paragraph (g)(1)
Supplement No. 5 to Part 773, paragraph (g)(5)
Supplement No. 1 to Part 774, item (9)(a)
Supplement No. 1 to Part 774, item (9)(c)
775.1(b), in the Table under the column titled "If the Commodity is"
775.3(a)(1)
775.3(f)(3)
775.3(i)(1)(i)
775.10(b)(1)(ii)
775.10(b)(2)(i)
776.12(e)(2)(vi)
777.6(e)(4)
786.3(j)(1)
786.3(j)(2)
Supplement No. 1 to 799.2, Interpretation 10 (two references)

7. The phrase "Export Control Commodity Numbers" is revised to read "Export Control Classification Numbers" in the following places:

Sec.
770.2 in the definition of "Export Control Commodity Numbers" heading
773.2(b)(6)
773.3(b)(1)(iv)
773.7(b)(5)
Supplement No. 5 to Part 773, paragraph (g)
775.9(c)
776.9(b)(4)(ii)
790.1(b)(1)(i)
790.6

7a. In § 776.12(e)(2)(v), the phrase "Export Control Commodity Number(s)" is revised to read "Export Control Classification Number(s)".

8. In the list below, for each section indicated in the left column, remove the phrase or reference in the middle column from wherever it appears in the section, and add the phrase or reference indicated in the right column.

Sec.	Remove	Add
770.10		
(f) (2) and (3)	Entry No. 1416	ECCN 8A01.
(f)(3)	Entry No. 6499	ECCN 8A94.
771.2(c) introductory text	ECCN 7599I and 7999I	ECCN 0A98.
772.8(d)(2), Block 9(c)	Export control commodity number 6999G and processing code, MG.	Export Control Classification Number 0A96.
772.9		
(c)(1)	1648A must be reported in "lbs."	1A01 must be reported in "kilograms."
(c)(2)	Entry 1527A	ECCN 5A11.
773.5(c)	(ECCN 4517B)	(ECCN 5A80).
Supp. No. 1 to Part 773, item 11	ECCN is 1564	ECCN is 3A01.a.
Supp. No. 5 to Part 773, paragraph (g) introductory text	(E.g., 1565A computers; 1355A manufacturing machinery)	(E.g., 4A03 digital computers; 3B01 manufacturing equipment).
774.2(k)(1)(ii)	ECCN 4517B	ECCN 5A80.
776.16(a)	Under CCL listings 2018A, 1118A, 2406A, and 2603A	Under ECCNs 0A18.c, 1B18.a, 2B18, and 9A18.b.
778.7		
(c)(1) introductory text	Identified in ECCN 7599I or 7999I	Identified in ECCN 0A98.
(d)(3)(i)	ECCN 4118B	ECCN 1B28.a.
778.8		
(a)(1) introductory text	ECCN 4798B	ECCN 1C60.
(a)(1)(i)	4798B	1C60.
(a)(1)(ii) (2 references)	4798B	1C60.
(a)(2)	Identified in ECCNs 5129F, 5132F, 5133F, 5134F, 5135F, 5140F, 5141F, and 5797F.	Identified in ECCNs 1B70 and 1C64.
(a)(4)	ECCNs 5165F, 5167F, 5170F, and 5997F	ECCNs 1B71 and 1C65.
(a)(5)(iv)(A) introductory text	ECCN 4798B	ECCN 1C60.
(a)(5)(v)	ECCN 4798B	ECCN 1C60.
(c)(1)	ECCN 7599I or 7999I	ECCN 0A98.
(d)(3)(iii)	ECCNs 4997B and 4998B	ECCN 1C61.
(d)(3)(viii)	ECCN 4798B	ECCN 1C60.
(d)(3)(xi)	ECCN 4798B	ECCN 1C60.
(d)(4) [2 references]	ECCN 4798B	ECCN 1C60.
778.9(c)	ECCN 4798B	ECCN 1C60.
785.1(a)	ECCNs 7599 and 7999	ECCN 0A98.
785.7(c)	CCL entry 6490F	ECCN 9A91.
786.7		
(a)	See ECCN 1510A	See ECCN 6A01.
(b)	ECCN 1505A	ECCNs 6A03 and 6A43.
(c)(1) introductory text	ECCNs 1702A or 1754A	ECCN 1C09.
(e)(1) introductory text	Entry 1746A	ECCN 1C08.
(e)(2) introductory text	Entry 1485A	ECCN 7A01.
	1485A	ECCN 7A01.
(e)(3) introductory text	Entry 1110A	ECCN 2B01.

9. The phrase "code letter 'A', 'B', or 'M' " is revised to read "code letter 'A' or 'B' " in the following places:

Sec.
770.7(c)(2)
770.9
771.22(c)(1)(ii)

9a. In § 771.18(b)(1)(i) the phrase "code letter 'A', 'B', 'C', or 'M' " is revised to read "code letter 'A' or 'B' ".

10. The phrase "P.O. Box 7138, Washington, DC 20044" is revised to read "Room 2631, Washington, DC 20230" in the following places:

Sec.
771.2(i)
771.22(b)(8)(ii)
772.1(f)
772.7(b)
773.1(e)
786.3(o)
786.9(d)
787.14(a)(1)
787.14(a)(2)

PART 769—[AMENDED]

§ 769.6 [Amended]

11. Section 769.6, paragraph (b)(4) is amended by revising the phrase "Room 3899" to read "Room 6099C".

PART 770—[AMENDED]

12. Section 770.2 is amended by adding a definition for the term *"Countries supporting international terrorism"* immediately following the definition for *"Controlled country"*, and by adding a definition for the term *"Supercomputers"* immediately following the definition for *"Southwest Asia"* to read as follows:

§ 770.2 Definition of terms.

* * * * *

Controlled country. * * *

Countries supporting international terrorism. In accordance with section 6(j) of the Export Administration Act of 1979, as amended (EAA), the Secretary of State has determined that the following countries have repeatedly provided support for acts of international terrorism: Cuba, Iran, Iraq, Libya, North Korea, and Syria.

* * * * *

Southwest Asia. * * *

Supercomputers. The definition of "supercomputers" for export control purposes is any computer with a Composite Theoretical Performance (CTP) equal to or exceeding 195 MTOPS (million theoretical operations per second). For calculation of CTP see the TECHNICAL NOTE in Category 4 of Supplement No. 1 to § 799.1 of this subchapter.

* * * * *

13. Section 770.3 is amended by revising paragraph (a)(1) to read as follows:

§ 770.3 Prohibited exports.

(a) * * *

(1) Any export to Canada, for consumption in Canada,[4] unless the Export Control Classification Number indicates that an Individual Validated License is required.

* * * * *

14. Section 770.14, paragraph (a)(4) is revised to read as follows:

§ 770.14 Processing license applications for COCOM participating countries and other selected countries.

(a) * * *

(4) "COCOM controlled item" means any item on the Commerce Control List having the last two digits 01 to 19 and identified by the code letter "A" following the four-digit Export Control Classification Number.

* * * * *

15. Supplement No. 2 to Part 770 (U.S. Munitions List) is amended:

a. By revising the phrase "Office of Munitions Control" to read "Office of Defense Trade Controls" in the following places:

1. In the introductory text;

2. In footnote no. 3 to Category I (Firearms), paragraph (a); and

3. In Category XXI (Miscellaneous Articles); and

b. By revising paragraphs (g) and (j) of Category VIII (Aircraft, Spacecraft, and Associated Equipment) to read as follows:

Supplement No. 2—U.S. Munitions List

* * * * *

Category VIII—Aircraft, Spacecraft, and Associated Equipment

* * * * *

(g) Inertial navigation systems and all specially designed components, parts and accessories, except those systems or components that are standard equipment in civil aircraft, including spare parts and spare units to be used exclusively for the maintenance of inertial navigation equipment incorporated in civil aircraft, and that are certified by the Federal Aviation Administration (FAA) as being an integral part of such aircraft. All exports of technical data related to the design, development, production, or manufacture of inertial navigation equipment (regardless of accuracies) or its related parts, components, or subsystems are subject to the requirements of the regulations contained in this subchapter. The export of technical data related to the repair of parts, components, or subsystems of inertial navigation systems (including accelerometers and gyroscopes) that are not certified by the FAA as being an integral part of civil aircraft are subject to the requirements of this subchapter. The provisions of XI(e) and XII(c) of this supplement are not applicable to such exports of technical data.

* * * * *

(j) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specially designed or modified for the articles in paragraph (a) through (i) of this category, excluding aircraft tires and propellers used with reciprocating engines.

* * * * *

PART 771—[AMENDED]

16. Section 771.2 is amended by revising paragraph (c)(11) and by removing and reserving paragraph (c)(12), to read as follows:

§ 771.2 General provisions.

* * * * *

(c) * * *

(11) The exporter or reexporter knows or has reason to know that the commodity is for delivery, directly or indirectly, to or for use by or for military or police entities in the Republic of South Africa. This includes commodities for servicing equipment owned, controlled, or used by or for such entities;

(12) [Reserved]

* * * * *

17. Section 771.5 is amended:

a. By revising paragraph (a)(1);

b. By removing paragraph (a)(2);

c. By redesignating paragraph (a)(3) as (a)(2);

d. By revising the phrase "GLV $ Value Limit" to read "GLV" in the newly designated paragraph (a)(2)(i) and in paragraph (c)(1)(i);

e. By revising the example that follows paragraph (c)(3); and

f. By revising paragraph (d), as follows:

§ 771.5 General License GLV; shipments of limited value.

(a) * * *

(1) To a destination in Country Group T or V (except the People's Republic of China), provided that the net value of the commodities included in the same order and controlled under the same ECCN entry on the Commerce Control List does not exceed the amount specified in the "GLV" paragraph for that entry.

* * * * *

(c) * * *

(3) * * *

Example: An order includes commodities valued at $8,000. The order consists of commodities controlled under CCL entries 6A05 and 4A02. Commodities in the order controlled under 6A05 are valued at $3,000 while those controlled under 4A02 are valued at $5,000. Since the net value of the commodities controlled under each entry falls within the GLV dollar value limits applicable to that entry, the order may be shipped under General License GLV.

* * * * *

(d) *Exception.* The provisions of § 771.5 do not apply to the commodities listed in Supplement No. 2 to part 777 of this subchapter unless, in addition to meeting the other requirements of § 771.5, the exporter, prior to exporting such commodity, has assembled the documentary evidence in § 771.16 establishing that the commodity was not produced from a Naval Petroleum Reserve.

* * * * *

§ 771.6 [Amended]

18. In section 771.6, paragraph (a) is amended by revising the phrase "Code Letter "A", "B", "C", or "M" " to read "code letter "A", "B", or "C" "; by revising the phrase "code letters "A", "B", "C", or "M" " to read "code letter "A", "B", or "C" "; and by revising the phrase "code letters "A" or "M" " to read "code letter "A" ".

§ 771.16 [Amended]

19. Section 771.16 introductory text is amended by removing the parenthetical phrase "(*except* that only commodities listed in ECCN 4778B may be exported under this general license to South Africa)".

§ 771.22 [Amended]

20. In § 771.22, paragraph (c)(2) is amended by revising the phrase "§ 778.3." to read "§ 778.3 of this subchapter; and" in paragraph (ii); by revising the phrase "oral communications; and" to read "oral communications." in paragraph (iii); and by removing paragraph (iv).

21. Section 771.23 is amended by revising paragraphs (b) and (c) to read as follows:

§ 771.23 General license GFW; low level exports to certain countries.

* * * * *

(b) *Eligible countries.* Shipments of eligible commodities may be made to any destination in Country Groups T or

[4] See § 786.1(d) of this subchapter for shipments to Canada, not identified for consumption in Canada, and regarding the requirement of a Shipper's Export Declaration for certain exports to Canada.

V, except the People's Republic of China, Afghanistan, Iran, and Syria.

(c) *Eligible commodities.* The commodities eligible for export under this general license are those described in the Advisory Notes in the Commerce Control List that indicate likelihood of approval for Country Groups QWY. (The Advisory Notes for the People's Republic of China and the notes indicating "favorable consideration" are not applicable to GFW eligibility.) End-use and quantity restrictions in such QWY Advisory Notes may be disregarded in determining whether GFW may be used. *GFW* paragraphs under the Requirements heading in each ECCN will refer exporters to the appropriate Advisory Notes. However, the *GFW* paragraphs and Advisory Notes may contain specific restrictions on the applicability of GFW. Shipments of eligible commodities are subject to the prohibitions contained in § 771.2(c).

§ 771.24 [Removed and reserved]

22. Section 771.24 is removed and reserved.

23. Section 771.25 is amended:

a. By revising the heading;

b. By revising paragraph (a);

c. By revising paragraph (c);

d. By revising the phrase "GFW or G-COCOM limits" to read "GFW or PRC Advisory Note limits" in the introductory text of paragraph (d); and

e. By revising paragraph (f)(1); as follows:

§ 771.25 General license GCT.

(a) *Scope.* A general license designated GCT is established authorizing exports to eligible countries of all "A" level commodities, except those excluded in the GCT paragraphs under the Requirements heading for each entry in the CCL. Exports may be made under General License GCT only when intended for use or consumption within the importing country, reexport among and consumption within eligible countries, or reexport in accordance with other provisions of the Export Administration Regulations (15 CFR parts 730–799).

* * * * *

(c) *Eligible exports.* The commodities eligible for export under this General License GCT are all "A" level commodities, except those specifically excluded in the GCT paragraphs under the Requirements heading for each entry in the CCL. All shipments under General License GCT are subject to the prohibitions contained in § 771.2(c).

* * * * *

(f) * * * (1) *Shipper's Export Declaration.* A shipment that contains commodities eligible under General Licenses GFW and GCT may be included under GCT on the same Shipper's Export Declaration (SED). When making such shipment, the exporter must place the general license symbol "GCT" in the appropriate space on the SED. Even though the general license symbol "GCT" is noted on the SED, an importer statement is required only for those items on the SED that exceed the GFW limits (see § 771.25(d)).

* * * * *

PART 772—[AMENDED]

24. Section 772.4 is amended by adding a new paragraph (a)(2)(iv) and by revising paragraph (e) to read as follows:

§ 772.4 How to apply for a validated license.

(a) * * *

(2) * * *

(iv) *General guidance on commodity exports.* Applicants are required to provide values of the technical parameters used in describing the Export Control Classification Number (ECCN) that controls their applicable commodity(ies) and the specific end-use(s) for any commodity entry identified on the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter). All technical parameter values must be provided in the same units as specified within the ECCN.

* * * * *

(e) *Inclusion of related items on a single application.* Items may be combined on a single application for export license if the items listed are licensed by a single branch of the Office of Export Licensing, as follows:

Computer Systems Branch: Category 4
Electronic Branch: Categories 3 and 5
Capital Goods Branch: Categories 1, 2, 6, 7, 8, 9, and 0

* * * * *

25. Section 772.11 is amended by revising paragraph (d)(2) and by revising paragraph (e)(6) to read as follows:

§ 772.11 Amending export licenses.

* * * * *

(d) * * *

(2) Addition of an item licensed by a different branch of the Office of Export Licensing.

* * * * *

(e) * * *

(6) *Change in item*—provided the licensing branch is the same for any added item(s).

* * * * *

26. Supplement No. 1 to part 772 is amended by revising Item 9(b) to read as follows:

Supplement No. 1 to Part 772—Instructions for Preparing Application for a Validated License

* * * * *

Item 9(a) * * *

Item 9(b). Computer performance is calculated in Composite Theoretical Performance (CTP), not Processing Data Rate (PDR). Insert numerical value for CTP in PDR column. If not applicable, insert N/A. Place model # before description, followed by a colon (:). End description with ECCN paragraph reference. Do NOT put model number in 9(b) on form if model number exceeds 30 characters. Instead, type the word "various" followed by a colon (:). Put the model number(s) on a plain sheet of paper with the Application Control Number, and attach to the application. Describe commodities, software, or technology. Furnish additional details as prescribed by the Export Administration Regulations when necessary to identify the specific items to be so classified. Include all characteristics shown in the specific ECCN, using ECCN measurements to include, for example, basic ingredients, composition, electrical parameters, size, gauge, grade, horsepower, etc. These characteristics must be identified for the commodities, software, or technology proposed for export, which may be different than the characteristics described in the promotional brochure(s). Where the specific ECCN entry states "specify by name", list by name on the application all the commodities to be included in the shipment. Include the ECCN paragraph reference at the end of the description. Processing Code: Leave blank.

* * * * *

PART 773—[AMENDED]

27. In § 773.1, paragraph (a)(1) is revised to read as follows:

§ 773.1 Introduction.

* * * * *

(a) * * * (1) *Limitations on exports and reexports to the Republic of South Africa.* Consistent with U.S. policy toward the Republic of South Africa, as set forth in § 785.4(a) of this subchapter, the special licensing procedures in this part 773 may not be used by any U.S. exporter or approved consignee to:

(i) Export or reexport arms, munitions, or military equipment or material (including materials, machinery, or technical data for their manufacture and maintenance) to the Republic of South Africa (see supplement No. 2 to part 779 of this subchapter); or

(ii) Export or reexport any commodity, software, or technology for delivery directly or indirectly to or for use by or for military or police entities in the Republic of South Africa. This includes commodities, software, and technology for purposes of servicing equipment owned, controlled, or used by or for such entities.

* * * * *

28. Section 773.2 is amended:

a. By revising paragraph (a)(1);

b. By revising paragraph (b);

c. By revising paragraph (c)(2)(iv)(B);

d. By removing the example that follows paragraph (c)(2)(iv)(B); and

e. By revising paragraph (c)(2)(iv)(D), as follows:

§ 773.2 Project license.

* * * * *

(a) * * *

(1) The items to be exported are covered by entries in the Commerce Control List under at least two different categories and licensed by two of the branches (for example, Categories 4 and 6, licensed by the Computer Systems Branch and the Capital Goods Branch);

* * * * *

(b) *Commodities, technical data, and activities not eligible for the Project License.* All items listed in the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) will be considered for eligibility under the Project License procedure, except:

(1) Items subject to the South African limitations described in § 773.1;

(2) Commodities listed in Supplement No. 1 to Part 773;

(3) Commodities intended for resale in the form in which they were exported from the U.S.;

(4) Any software or technology (except General License GTDA) that relates to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear fuel containing plutonium, or controlled by the Department of Energy (see § 770.10(e) of this subchapter and 10 CFR part 810); and

(5) Any shipment of items to Libya, Iran, or Syria.

(c) * * *

(2) * * *

(iv) * * *

(B) *Export Control Classification Numbers.* From the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter), list each Export Control Classification Number (ECCN) (and subparagraph designation, if applicable) proposed for export under the Project License.

* * * * *

(D) *Value Limitation.* Enter the total dollar value of the license to all destination(s). Include this amount in item 9(d) on Form BXA–622P.

* * * * *

29. Section 773.3 is amended:

a. By revising paragraph (b);

b. By removing the parenthetical phrase "(other than computers and computer-related equipment)" in paragraph (d)(3)(ii)(E)(*3*)(*i*);

c. By removing paragraph (d)(3)(ii)(E)(*3*)(*iii*) and the Note that follows paragraph (d)(3)(ii)(E)(*3*)(*iii*);

d. By revising paragraph (e)(1)(iii);

e. By removing the period at the end of paragraphs (e)(1)(ix) concluding text and (e)(1)(x) through (e)(1)(xiii) and replacing the periods with a semicolon;

f. By adding new paragraphs (e)(1)(xiv) and (e)(1)(xv); and

g. By revising paragraph (e)(2)(v), as follows:

§ 773.3 Distribution license.

* * * * *

(b) *Ineligible or restricted commodities*—(1) *Ineligible commodities.* All commodities listed in the Commerce Control List (Supplement No. 1 to § 779.1 of this subchapter) will be considered for eligibility under the Distribution License procedure, except those listed in paragraphs (b)(1)(i) and (b)(1)(ii) of this section. Software and technology are *not* eligible for this procedure. The following ineligible commodities require an individual validated license or written reexport authorization, except when the commodities are otherwise eligible for a general license or permissive reexport authorization.

(i) Commodities listed in Supplement No. 1 to part 773 (except as authorized by a footnote); and

(ii) Commodities subject to the South African limitations described in § 773.1.

(2) *Restricted commodities.* Commodities listed in Supplement No. 4 to part 773 may be exported under a Distribution License only when the specific consignee or customer of a consignee has been approved in advance as an end-user. End-users within countries listed in Supplement No. 2 or 8 to part 773 need not be approved in advance. To obtain approval, the Distribution License holder must submit to the Office of Export Licensing (OEL) a listing of end-users in triplicate, indicating the commodities on Supplement No. 4 to part 773 that each end-user is to receive. If OEL approves, the applicant and approved foreign consignees will be authorized to supply under a Distribution License only those Supplement No. 4 items listed and approved, and only to approved end-users.

* * * * *

(e) * * *

(1) * * *

(iii) A system for timely distribution to consignees and verification of receipt by consignees of the Table of Denial Orders (TDO) (Supplement No. 1 to part 788 of this subchapter) and other regulatory materials necessary to ensure compliance;

* * * * *

(xiv) A system for assuring compliance with controls under the Missile Technology Control Regime (see § 778.7 of this subchapter); and

(xv) A system for assuring compliance with controls under the Chemical and Biological Weapons regime (see § 778.8 of this subchapter).

(2) * * *

(v) A system for complying with the nuclear, missile, and chemical and biological restrictions under the procedure.

* * * * *

30. Section 773.7 is amended by revising paragraph (b) and paragraph (d)(1)(iv)(B)(*5*) to read as follows:

§ 773.7 Service supply procedure.

* * * * *

(b) *Ineligible or restricted commodities.* All commodities listed in the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) will be considered for eligibility under the Service Supply procedure, except:

(1) Parts to service arms, ammunition, or implements of war referred to in Supplement No. 2 to part 770 of this subchapter;

(2) Commodities listed in Supplement No. 1 to part 773 and any parts to service such commodities; and

(3) Parts to service any equipment owned, controlled, or used by or for a military or police entity in the Republic of South Africa.

* * * * *

(d) * * *

(1) * * *

(iv) * * *

(B) * * *

(*5*) All commodities not identified by the code letter "A" having Export Control Classification Numbers processed by the same licensing branch may be combined into a single entry. The description for each such entry shall be in terms of broad descriptive categories corresponding with the Categories that appear on the Commerce Control List (see § 799.1 of this subchapter).

* * * * *

31. Supplement No. 1 to Part 773 is revised to read as follows:

Supplement No. 1 to Part 773—Commodities Excluded From the Special License Procedures

All commodities listed in the Commerce Control List (CCL) (Supplement No. 1 to § 799.1 of this subchapter) will be considered under the special license procedures, except those listed in this supplement. Ineligible commodities require an individual validated license or written reexport authorization, except when the commodities are otherwise eligible for a general license or permissive reexport authorization.

(a) Supercomputers as defined in § 770.2 of this subchapter to all destinations, except Canada and Japan;

(b) Commodities that will be used outside of the countries listed in Supplement No. 2 to Part 773 either directly or indirectly in any sensitive nuclear activity as described in § 778.3 of this subchapter;

(c) Commodities subject to short supply controls (see Part 777 of this subchapter);

(d) Aircraft parts and accessories destined for Libyan, Iranian, or Syrian aircraft, wherever located;

(e) Communication intercepting devices (see § 776.13 of this subchapter);

(f) Crime control and detection equipment (see § 776.14 of this subchapter);

(g) Commodities subject to regional stability controls (see § 776.16 of this subchapter);

(h) Commodities related to the design, development, production, or use of missiles (see § 778.7 of this subchapter);

(i) Chemical precursors and biological agents (see § 778.8 of this subchapter), except as allowed under the Special Chemical License (see § 773.9 of this subchapter);

(j) Chemical processing equipment and intermediates (see § 778.8 of this subchapter), except as allowed under the Special Chemical License (see § 773.9 of this subchapter);

(k) Commodities that the exporter or reexporter knows will be used in the design, development, production, or use of missiles or in the design, development, production, stockpiling, or use of chemical or biological weapons (see §§ 778.7 and 778.8 of this subchapter);

(l) Commodities subject to nuclear non-proliferation controls (see § 778.2 of this subchapter [1,2,3]);

(m) Other commodities specifically excluded or restricted by the Office of Export Licensing in issuing the license.

32. Supplement No. 4 to Part 773 is revised to read as follows:

Supplement No. 4 to Part 773—Special Distribution License Restrictions For Certain Commodities Included in the Commerce Control List

The following commodities are subject to certain special restrictions, as specified in § 773.3(b)(2).

3B01 "Stored program controlled" chemical vapor deposition equipment as defined in 3B01.d.1 or 3B01.d.2. Equipment specially designed for ion implantation as defined by 3B01.b.1, 3B01.b.2, 3B01.b.3, or 3B01.b.4. "Stored program controlled" lithography equipment as defined in 3B01.g.1.

3B01[1] "Stored program controlled" lithography equipment as defined in 3B01.g.2. "Stored program controlled" test equipment specially designed for testing individual microcircuits, capable of performing basic functional (truth table) testing at a pattern rate greater than 60 MHz.

2B01 Turning machines controlled under 2B01.c.1 that are not eligible for favorable consideration under 2B01, Advisory Note 4.

2B02 Non-"numerically controlled" machine tools for generating optical quality surfaces controlled under 2B02.b.

2B06 Computer controlled, "numerically controlled" or "stored program controlled" dimensional inspection machines as defined in 2B06.a; Angular measuring instruments as defined in 2B06.b.2.

3A52 Cathode ray oscilloscopes having amplifier bandwidths greater than 500 MHz; Oscilloscopes having cathode ray tubes incorporating microchannel plate electron multipliers capable of operating at frequencies greater than 100 MHz; Digital oscilloscopes with sequential sampling of the input signal at an interval of less than 2 nanoseconds.

1C07 Entire entry.

3C01 Resist materials sensitive to X-Ray, electron or ion beams, or specified for dry development as defined by 3C02.a, 3C02.b, 3C02.c, or 3C02.d.

PART 774—[AMENDED]

§ 774.2 [Amended]

33. In section 774.2, paragraph (a)(1) is amended by revising the phrase "G–COCOM, GFW, GCG," to read "GFW, GCG,".

34. In section 774.3, paragraph (d)(1)(i) is revised to read as follows:

§ 774.3 How to request reexport authorization.

* * * * *

(d) * * *

(1) * * *

(i) The items being exported:

(A) Are identified by a code letter "A" suffix on the Commerce Control List; and

(B) Are not included in any applicable Advisory Notes on the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) (the Advisory Notes for the People's Republic of China do not apply in meeting this requirement).

* * * * *

35. Supplement No. 1 to Part 774 is amended by revising the supplement heading and Item 9(b) to read as follows:

Supplement No. 1 to Part 774—Instructions for Preparing Form BXA-699P, "Request for Reexport Authorization"

* * * * *

Item 9(a) * * *

Item 9(b). Computer performance is currently calculated in Composite Theoretical Performance (CTP), instead of Processing Data Rate (PDR). Insert numerical value for CTP in PDR column. If not applicable, insert N/A. Place model # before description, followed by a colon (:). Put the model number(s) on a plain sheet of paper with the Application Control Number, and attach to the application.

Describe commodities, software, or technology. Furnish additional details as prescribed by the Export Administration Regulations when necessary to identify the specific items to be so classified. Include all characteristics shown in the specific ECCN, using ECCN measurements to include, for example, basic ingredients, composition, electrical parameters, size, gauge, grade, horsepower, etc. These characteristics must be identified for the commodities, software, or technology proposed for reexport, which may be different than the characteristics described in the promotional brochure(s).

Where the specific ECCN entry states "specify by name", list by name on the application all the commodities, software, or technology data to be included in the shipment. Include the ECCN paragraph reference at the end of the description. Processing Code: Leave blank.

* * * * *

PART 775—[AMENDED]

§ 775.1 [Amended]

36. In section 775.1, in paragraph (b), the table, under the heading "if the commodity is" is amended by revising the phrase "code letter B, C, or M" to read "code letter B" in item nos. 2 and 3; and by revising the phrase "code letter A, B, C, D, E, F, G, or M" to read "code letter A, B, C, D, E, F, G, or H" in item no. 7.

---

[1] Exports under the Distribution License of electronic computers (Category 4) may not exceed the following limits for the following destinations:

(a) Destinations listed in Supplement Nos. 2 or 8 to part 773. A Composite Theoretical Performance (CTP) capacity equal to or greater than 195 MTOPS (million theoretical operations per second), except for Japan where there is no CTP ceiling limit;

(b) Destinations listed in Supplement No. 3 to part 773. A Composite Theoretical Performance (CTP) capacity equal to or greater than 41 MTOPS (million theoretical operations per second); and

(c) Destinations *not* listed in Supplement Nos. 2, 3, or 8 to part 773. A Composite Theoretical Performance (CTP) capacity equal to or greater than 23 MTOPS (million theoretical operations per second), except for Argentina, Brazil, India, Israel, Pakistan, and the Republic of South Africa where the CTP capacity may *not* exceed 12.5 MTOPS.

[2] Computers may be approved under the Project License procedure and Service Supply License on a case-by-case basis. Project License applicants should specify the types and sizes of computers and how they will be used in the project.

[3] Certain oscilloscopes may be eligible under Supplement No. 4 to part 773.

[4] The exclusion does not apply to spare and replacement parts for this equipment.

§ 775.2 [Amended]

37. In section 775.2, the last sentence of paragraph (e)(2) is amended by revising the phrase "Group title" to read "Category title" and by revising the phrase " 'Metal-Working Machinery' " to read "Materials Processing".

38. In section 775.2, paragraph (j)(3) is amended by revising the phrase "*Export Control Commodity Numbers and Processing Number*" to read "*Export Control Classification Numbers*" in the last sentence of the certification.

§ 775.3 [Amended]

39. In section 775.3, paragraphs (g)(3)(i) and (g)(3)(ii) are amended by revising the phrase "*Export Control Commodity Numbers and Processing Code*" to read "*Export Control Classification Numbers*" in the last sentence of each certification.

§ 775.5 [Amended]

40. In section 775.5, paragraph (a)(3) is amended by revising the phrase "*Export Control Commodity Numbers and Processing Code*" to read "*Export Control Classification Numbers*" in the last sentence of the certification.

40a. Section 775.6 is amended by adding a sentence at the end of paragraph (a) to read as follows:

§ 775.6 People's Republic of China end-user certificate.

(a) * * * When the commodity is described in an Advisory Note for Country Groups QWY on the CCL, a Form BXA–629P may be substituted for the PRC End-User Certificate.

* * * * *

§ 775.7 [Amended]

41. In section 775.7, paragraph (a)(3) is amended by revising the phrase "*Export Control Commodity Numbers and Processing Code*" to read "*Export Control Classification Numbers*" in the last sentence of the certification.

§ 775.8 [Amended]

42. Section 775.8 is amended:

a. By revising the phrase "commodities identified" to read "items identified" in the first sentence of paragraph (a);

b. By revising the phrase "commodities classified" to read "commodities or software classified" in the first sentence of paragraph (b)(1);

c. By revising the phrase "technical data regardless" to read "technology regardless" in the last sentence of paragraph (b)(1); and

d. By revising the phrase "commodities for" to read "commodities or software for" in paragraph (b)(2).

§ 775.9 [Amended]

43. In section 775.9, paragraph (c) is amended by revising the phrase "*Export Control Commodity Numbers and Processing Number*" to read "*Export Control Classification Numbers*" in the certification.

PART 776—[AMENDED]

44. Section 776.6 is revised to read as follows:

§ 776.6 Chemicals.

Export license applications covering chemicals, medicinals, and pharmaceuticals shall state such facts relating to grade, form, concentration, mixtures, or ingredients as may be necessary to identify the commodity accurately. In those cases where Chemical Abstract Service Registry (C.A.S.) numbers exist they must be specified on the license application.

§ 776.7 [Removed and Reserved]

45. Section 776.7 is removed and reserved.

46. Section 776.8 is amended by redesignating footnote No. 2 as footnote No. 1 and by revising paragraph (a)(1) to read as follows:

§ 776.8 Aircraft and equipment, parts, accessories, and components therefor.

(a) * * *

(1) Include both the aircraft and parts on a single license application even though they may be in different categories and are licensed by different branches; and

* * * * *

47. Section 776.10 is revised to read as follows:

§ 776.10 Electronic computers and related equipment.

Special provisions relating to the licensing for export or reexport of electronic computers and/or related items (Category 4) are set forth as follows:

(a) *Digital computers*—(1) *General requirements.* The BXA–6031P, Computer Parameters Form is no longer required. Applications to export or reexport "digital computers" or equipment containing digital computers to destinations in Country Groups Q, W, and Y, Afghanistan, and the People's Republic of China, or to upgrade existing "digital computer" installations in those countries, must include the parameters that correspond to the computer or related equipment as listed in Category 3 (Converters), Category 4, or Category 5 (Communication Equipment) of the Commerce Control List (CCL), Supplement No. 1 to § 799.1 of this subchapter. These parameters must be included with the description of your item in section 9(b) of the license application form. The Composite Theoretical Performance (CTP) should be listed in section 9(b) of the license application form. If the equipment exceeds the limits of the Advisory Notes that indicate a likelihood of approval for Country Groups Q, W, and Y, a block diagram of the entire system should be submitted along with the application. Also, specification sheets and product brochures should be furnished to corroborate the data supplied on the application. Observe the precise definitions and units of measure as listed in Advisory Notes 1, 2, and 3 to Category 4, before making calculations or listing parameters.

(2) *Special documentation requirements.* Applications to export or reexport computers or related equipment that are described in Advisory Note 3 to Category 4, or that exceed any of the limits specified in Advisory Notes 2 or 3 to Category 4, must be accompanied by a signed statement from a responsible representative of the end-user or importing agency that:

(i) Describes the equipment, related equipment, and software;

(ii) Gives the intended application and workload;

(iii) Provides a complete identification of all end-users and their activities; and

(iv) Includes the certification contained in paragraph h.1.a of Note 3 to Category 4.

(b) *Commodities that need to be evaluated against Category 5.* In those cases where applications contain both Category 4 and Category 5 equipment, the application shall be submitted according to the principal function of the equipment. If the principal function is telecommunications, no CTP calculations are required. Computers, related equipment, or software performing telecommunication or local area network functions shall be evaluated against the telecommunications performance characteristics of Category 5, while crytographic, cryptoanalytic, certifiable multi-level security or certifiable user isolation functions, or systems that limit electromagnetic compatibility (EMC) shall be evaluated against the information security performance characteristics of Category 5.

(c) *Requests for additional information.* The Office of Export Licensing (OEL) may request additional information necessary to process the application. Failure to submit the information required by this § 776.10 or any additional information requested by

OEL will result in the application being returned without action.

§ 776.11 [Removed and reserved]

48. Section 776.11 is removed and reserved.

49. Section 776.12 is amended:

a. By revising the phrase "General License G–DEST, G–COCOM, or GFW." to read "General License G–DEST or GFW." in paragraph (a)(1)(ii);

b. By revising the phrase "General License G–DEST or G–COCOM;" to read "General License G–DEST;" in paragraph (b)(2);

c. By revising paragraph (b)(4);

d. By revising paragraph (b)(5); and

e. By republishing the note following paragraph (b)(5), as follows:

§ 776.12 Parts, components, and materials incorporated abroad into foreign-made products.

* * * * *

(b) * * *

(4) The U.S. content value is 25% or less and the ultimate destination of the foreign-made product is not located in Country Groups S or Z, or in Iran or Syria; or

(5) None of the technical performance characteristics of the U.S. content exceed those of any Advisory Note in the CCL that indicates licenses are likely to be approved for Country Groups Q, W, and Y, and the ultimate destination of the foreign-made product is not located in Country Groups S or Z, or in Iran or Syria.

Note: See § 776.12(g) for other controls that may apply even if the export would be excepted from prior written approval by paragraph (b) of this section.

* * * * *

50. Section 776.14(a) is amended by revising the second sentence to read as follows:

§ 776.14 Crime control and detection commodities.

(a) * * * Commodities affected by this requirement are identified on the Commerce Control List under ECCNs 0A18.f, 0A82, 0A84, 1A84, 3A90, 3A91, 4A03 (fingerprint computers only), 5A02, 6A02 (police-model infrared viewers only), and 9A80. * * *

* * * * *

51. Section 776.17 is revised and a new section 776.18 is added to read as follows:

§ 776.17 Robots, and specially designed controllers, end-effectors, and software.

An application for authorization to export or reexport robots, robot controllers, end-effectors, or related software (ECCN 2B07 or 2D01), and requests for export control classification shall contain the following information, as applicable.

(a) *General requirements.* (1) Specify if the robot is equipped with a vision system and its make, type, and model number.

(2) Describe fully any robot's capability of using sensors, image processing or scene analysis to generate or to modify robot program instructions or data.

(3) Specify if the robot is specially designed to comply with national safety standards for explosive munitions environments.

(4) If the robot is specially designed for underwater use, review against Category 8.

(5) Specify if the robot is specially designed for outdoor applications and if it meets military specifications for those applications.

(6) Specify if the robot is specially designed for operating in an electromagnetic pulse (EMP) environment.

(7) Specify if the robot is specially designed or rated as radiation-hardened beyond that necessary to withstand normal industrial (i.e., non-nuclear industry) ionizing radiation.

(8) Describe the manner in which the robot may be used in nuclear industry/manufacturing.

(b) *Robot controllers, end-effectors, and software.* Specify if the robot controllers, end-effectors, or software are specially designed for robots controlled under ECCN 2B07, and why.

§ 776.18 Numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, direct numerical control systems, specially designed assemblies, and specially designed software.

This section sets forth special provisions relating to the licensing for export or reexport or to the requesting for control classification of numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, and specially designed software.

(a) *Numerical control devices and motion control boards.* The following information shall be included with a validated license application (Form BXA–622P), a reexport request (Form BXA–699P), and an export control classification request:

(1) Make and model number of the control unit;

(2) Description and internal configuration of numerical control device. If the device is a computer with motion control board(s), then include the make and model number of the computer;

(3) Description of the manner in which a computer may be connected to the CNC unit for on-line processing of CAD data. Specify the make and model of the computer;

(4) Number of axes the control unit is capable of simultaneously controlling in a coordinated contouring mode, and type of interpolation (linear, circular, and other);

(5) Minimum programmable increment;

(6) Number and type of data communication interfaces;

(7) A description and an itemized list of all software/firmware to be supplied with the control device or motion control board, including software/firmware for axis interpolation function and for any programmable control unit or device to be supplied with the control unit;

(8) Description of capabilities related to "real time processing" and receiving computer aided-design as described in ECCN 2B0.a.2.a and a.2.b and ECCN 2B01.b.2 and b.3;

(9) A description of capability to accept additional boards or software that would permit an upgrade of the electronic device or motion control board above the control levels specified in ECCN 2B01; and

(10) Specify if the electronic device has been downgraded and how can it be upgraded again and how.

(b) *Numerically controlled machine tools and dimensional inspection machines.* The following information shall be included with a validated license application (Form BXA–622P), a reexport request (Form BXA–699P), and an export control classification request:

(1) Name and model number of machine tool or dimensional inspection machines;

(2) Type of equipment, e.g., horizontal boring machine, machining center, dimensional inspection machine, turning center, water jet, etc.;

(3) Description of the linear and rotary axes capable of being simultaneously controlled in a coordinated contouring made, regardless of the fact that the coordinated movement of the machine axis may be limited by the numerical control unit supplied by the machine tool;

(4) Maximum workpiece diameter for cylindrical grinding machines;

(5) Motion of the spindle axis measured in the axial direction in one revolution of the spindle, and a description of the method of measurement for turning machine tools only;

(6) Motion of the spindle axis measured in the radial direction in one

revolution of the spindle, and a description of the method of measurement;

(7) Overall positioning accuracy, and a description of the method for measurement; and

(8) Slide motion test results if required as described in ECCN 2B01.c.1.b.6.b.

§ 776.20 [Removed]

52. Section 776.20 is removed.

PART 778—[AMENDED]

53. Section 778.7 is amended:

a. By revising paragraph (a)(1);

b. By removing paragraph (a)(2); and

c. By redesignating paragraph (a)(3) as paragraph (a)(2), as follows:

§ 778.7 Equipment and related technical data used in the design, development, production, or use of missiles.

(a) * * *

(1) *Items subject to weapons delivery systems controls.* The items that require a validated license because they are subject to foreign policy controls on weapons delivery systems appear within ECCNs 1A02, 1A22, 1A27, 1A47, 1B01, 1B18, 1B21, 1B28, 1B30, 1C01, 1C07, 1C21, 1C22, 1C27, 1C31, 1D01, 1D02, 1D23, 1E01, 1E23, 1E24, 1E25, 2B04, 2B18, 2B24, 2D01, 2D18, 2D24, 2E01, 2E02, 2E18, 2E20, 2E24, 3A01, 3D21, 3E01, 4A01, 4A02, 4A03, 4A21, 4D01, 4D02, 4E01, 5A01, 5A20, 5D01, 5D02, 5D03, 5D20, 5E01, 5E20, 6A02, 6A07, 6A08, 6A22, 6A28, 6A29, 6A30, 6D01, 6D02, 6D21, 6D22, 6E01, 6E02, 6E21, 6E22, 6E23, 7A01, 7A02, 7A03, 7A04, 7A05, 7A06, 7A21, 7A22, 7A23, 7A24, 7A25, 7A26, 7A27, 7B01, 7B02, 7B03, 7B22, 7D01, 7D02, 7D03, 7D24, 7E01, 7E02, 7E03, 7E04, 7E21, 7E22, 9A01, 9A21, 9A22, 9B01, 9B02, 9B03, 9B04, 9B05, 9B06, 9B07, 9B21, 9B23, 9B24, 9B25, 9B26, 9B27, 9D01, 9D02, 9D03, 9D04, 9D24, 9E01, 9E02, and 9E21. Exporters should consult the *Reason for Control* paragraph in each ECCN to determine the specific item subject to these foreign policy controls.

* * * * *

54. In section 778.8, the section heading and paragraphs (a)(3) and (d)(3)(xii) are revised to read as follows:

§ 778.8 Chemical precursors and biological agents, and associated equipment, software, and technology.

(a) * * *

(3) Viruses, viroids, bacteria, fungi, and protozoa controlled by ECCN 1C61 require a validated license to all destinations except Canada.

* * * * *

(d) * * *

(3) * * *

(xii) The contract sanctity date for reexports of viruses, viroids, bacteria, fungi, and protozoa controlled by ECCN 1C61 is March 7, 1991.

* * * * *

Supplement No. 2 to Part 778 [Amended]

55. Supplement No. 2 to Part 778 is amended by revising the phrase "Yemen, People's Democratic Republic of" to read "Yemen, Republic of".

PART 779—[AMENDED]

56. Section 779.1 is amended:

a. By revising footnote no. 1 in the section heading;

b. By revising paragraph (a); and

c. By adding a new paragraph (d) to read as follows:

§ 779.1 Definitions.[1]

(a) *Technology, technical data, technical assistance, and software* [2, 3]. These terms are defined in Supplement No. 3 to § 799.1 of this subchapter. The terminology used in this part 779 will be changed in the future to conform to the terms and definitions used in Supplement No. 3 to part § 799.1 of this subchapter and in other parts of this subchapter. In the interim, the term "technical data" as used in this part 779, is understood to include both "technology" (i.e., technical data and technical assistance) and "software". If the term "software" is cited separately, the term refers only to software as defined in Supplement No. 3 to § 799.1 of this subchapter.

* * * * *

(d) *Direct product.* The term "direct product" means the immediate product (including processes and services) produced directly by the use of technical data.

57. Section 779.2, introductory text is amended by republishing the last sentence and by revising footnotes 7 and 8 to read as follows:

§ 779.2 Licenses to export.

* * * A validated license is required for any export of technical data where these general licenses do not apply, except in the case of certain exports to Canada.[7, 8]

58. Section 779.3 is amended by revising the note that immediately follows the section heading and by removing the OMB control number parenthetical phrase at the end of the section, as follows:

§ 779.3 General License GTDA: Technical data available to all destinations.

Note: In this § 779.3 the word "information" means "technical data" as used in this part (i.e., "technology" and "software" as defined in Supplement No. 3 to § 799.1 of this subchapter).

* * * * *

59. Section 779.4 is amended, as follows:

a. By revising paragraph (b);

b. By removing and reserving paragraphs (c) and (d);

c. By revising paragraph (e);

d. By revising paragraph (f);

e. By removing the "Note" that follows paragraph (f);

f. By removing paragraphs (g), (h), and (i);

g. By redesignating paragraph (j) as paragraph (g); and

h. By reserving footnotes 11 through 24.

§ 779.4 General license GTDR: Technical data under restriction.

* * * * *

(b) *General License GTDR without written assurance authorizes the following exports*—(1) *Operation technical data.* (i) For definitions and conditions for use of General License GTDR without written assurance for operation technical data, refer to the third paragraph of the General Technology Note as listed in Supplement No. 2 to § 799.1 of this subchapter. As defined in that Note, "operation technical data" is the minimum necessary for the installation, operations,[9] maintenance (checking),

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[1] See § 770.2 of this subchapter for definitions of other terms used in this part.

[2] The provisions of part 779 do not apply to "classified" technical data, i.e., technical data that have been officially assigned a security classification (e.g., "top secret", "secret", or "confidential") by an officer or agency of the U.S. Government. The export of classified technical data is controlled by the Center for Defense Trade of the U.S. Department of State or the U.S. Nuclear Regulatory Commission, Washington, DC.

[3] Reserved.

[7] An export of technical data to Canada may be made without either a validated or general license, unless a validated license is required to Canada by a specific subcategory D or E ECCN on the CCL.

[8] Although the Bureau of Export Administration may provide general information on licensing policies regarding the prospects of approval of various types of export control actions, including actions with respect to technical data, normally it will give a formal judgement respecting a specific request for an action only upon the actual submission of a formal application or request setting forth all of the facts relevant to the export transaction and supported by all required documentation. Advice is always available, however, regarding any questions as to the applicability of a general license. Such questions should be submitted by letter to the U.S. Department of Commerce, Bureau of Export Administration, P.O. Box 273, Washington, D.C. 20044.

[9] Exporters of digital computer equipment must describe on their license applications any software, including that shipped under General License GTDR, to be used with the equipment.

and repair of those products that are eligible for general licenses, or that are exported under a validated export license. The "minimum necessary" excludes from operation technical data development or production technical data and includes use technology only to the extent required to ensure safe and efficient use of the product. Individual entries in the software and technology subcategories of the CCL may further restrict export of "minimum necessary" technical data. (See Supplement Nos. 2 and 3 to § 799.1 of this subchapter for further information and definitions of the terms "development", "production", "use", and "required".)

(ii) Operation software may be exported under GTDR, without assurance, provided that:

(A) The operation software is the minimum necessary to operate the equipment authorized for export; and

(B) The operation software is in object code.

(2) *Sales technical data.* (i) "Sales technical data" is defined as data supporting a prospective or actual quotation, bid, or offer to sell, lease, or otherwise supply any item controlled by the EAR.

(ii) Sales technical data may be exported under GTDR, without written assurances, provided that:

(A) The technical data is a type customarily transmitted with a prospective or actual quotation, bid, or offer in accordance with established business practice; and

(B) The export will not disclose the detailed design, production, or manufacture, or the means of reconstruction, of either the quoted item or its product. The purpose of this limitation is to prevent disclosure of technical data so detailed that the consignee could use the technical data in production.

Note: Neither this authorization nor its use means that the U.S. Government intends, or is committed, to approve an export license application for any commodity, plant, or technical data that may be the subject of the transaction to which such quotation, bid, or offer relates. Exporters are advised to include in any quotations, bids, or offers, and in any contracts entered into pursuant to such quotations, bids, or offers, a provision relieving themselves of liability in the event that an export license (when required) is not approved by the Bureau of Export Administration.

(3) *Software updates.* Software updates that are intended for and are limited to correction of errors ("fixes" to "bugs" that have been identified) qualify for export under General License GTDR, without written assurance, provided the updates are being exported to the same consignee and do not enhance the functional capacities of the initial software package.

(4) *Technical data described in the Commerce Control List.* Certain other technical data may be exported under GTDR without written assurance. Such technical data is identified in the "Requirements" section of the ECCN under the heading "*GTDU*". The designations *"GTDU: Yes"* or *"GTDU: Yes except...."* indicate that General License GTDR without written assurance is available subject to any applicable exceptions. The designation *"GTDU: No"* indicates that General License GTDR without written assurance is not available. However, the designation *"GTDU: No"* does not restrict exports under paragraphs (b)(1), (b)(2), or (b)(3) of this section. Exporters have the option of using the term *"GTDU"* to describe General License GTDR without written assurance for all purposes, including information requirements on the Shipper's Export Declaration.

(c) [Reserved].

(d) [Reserved].

(e) *Restrictions applicable to the Republic of South Africa.*—(1) *General prohibition.* Except as provided in § 779.4 (b)(1), (b)(2), and (b)(3), no technical data may be exported or reexported to the Republic of South Africa under this General License GTDR where the exporter or reexporter knows or has reason to know that the data or the direct product of the data are for delivery, directly or indirectly, to or for use by or for military or police entities in South Africa or for use in servicing equipment owned, controlled, or used by or for such entities. In addition, no technical data relating to the commodities listed in Supplement No. 2 to this Part 779 may be exported or reexported under General License GTDR to any consignee in the Republic of South Africa.

(2) *Written assurances.* In addition to any written assurances that may or may not be required by paragraph (f) of this section, no export or reexport of technical data may be made to the Republic of South Africa under General License GTDR until the exporter has received written assurance from the importer that neither the technical data nor the direct product of the data will be made available to or for use by or for military or police entities of the Republic of South Africa.

(f) *General License GTDR with written assurances.* Except as provided in § 779.4(b) and (f)(5), no export of technical data described in this § 779.4(f) may be made under General License GTDR:

(1) Until the U.S. exporter has received a written assurance from the foreign importer that, unless prior authorization is obtained from the Office of Export Licensing, the importer will not knowingly:

(i) Reexport, directly or indirectly, to Country Group Q, S, W,[10] Y, or Z, or Afghanistan or the People's Republic of China any technical data relating to commodities controlled to Country Group "W" in the paragraph of any entry on the Commerce Control List titled "Validated License Required";

(ii) Export, directly or indirectly, to Country Group Z any direct product of the technical data if such direct product is controlled to Country Group "W" in the paragraph of any entry on the Commerce Control List titled "Validated License Required"; or

(iii) Export, directly or indirectly, to any destination in Country Group Q, S, W, Y, or Afghanistan or the People's Republic of China, any direct product of the technical data if such direct product is identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List.

(2) If the direct product of any technical data is a complete plant or any major component of a plant that is capable of producing a commodity controlled to Country Group "W" in the paragraph of any entry on the Commerce Control List titled "Validated License Required" or appears on the U.S. Munitions List, a written assurance by the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) shall be obtained by the U.S. exporter (via the foreign importer), stating that, unless prior authorization is obtained from the Office of Export Licensing, such person will not knowingly:

(i) Reexport, directly or indirectly, to Country Group Q, S, W, Y, or Z, or Afghanistan or the People's Republic of

[10] Effective April 26, 1971, Country Group W no longer included Romania. Assurances executed prior to April 26, 1971, and referring to Country Group W continue to apply to Romania as well as Poland. Effective June 2, 1980, Hungary was added to Country Group W, which at that time included only Poland. Assurances executed prior to June 2, 1980, and referring to Country Group Y continue to apply to Hungary. Assurances executed on or after June 2, 1980 and referring to Country Group W apply to Hungary as well as Poland. Effective April 25, 1991, Czechoslovakia was added to Country Group W. Assurances executed before April 25, 1991, and referring to Country Group Y continue to apply to Czechoslovakia. Assurances executed on or after April 25, 1991, and referring to Country Group W apply to Czechoslovakia as well as Poland and Hungary.

China, the technical data relating to the plant or the major component of a plant;

(ii) Export, directly or indirectly, to Country Group Z, the plant or the major component of a plant (depending upon which is the direct product of the technical data) or any product of such plant or of such major component, if such product is identified by the symbol "W" in the paragraph of any entry on the Commerce Control List titled "Validated License Required" or appears on the U.S. Munitions List; or

(iii) Export, directly or indirectly, to any destination in Country Group Q, S, W, Y, or Afghanistan or the People's Republic of China, the plant or the major component of a plant (depending upon which is the direct product of the technical data) or any product of such plant or of such major component, if such product is identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List or appears on the U.S. Munitions List.

Note: Effective April 1, 1964, § 779.4(f)(2)(ii) and (f)(2)(iii) required certain written assurances relating to the disposition of the products of a complete plant or major component of a plant that is the direct product of unpublished technical data of U.S. origin exported under General License GTDR. Except as to commodities identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List, and items on the U.S. Munitions List, the effective date of the written assurance requirements for plant products as a condition of using General License GTDR for export of this type of technical data is hereby deferred until further notice, subject to the following limitations:

1. The exporter shall, at least two weeks before the initial export of the technical data, notify the Office of Export Licensing, by letter, of the facts required to be disclosed in an application for a validated export license covering such technical data; and

2. The exporter shall obtain from the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) a written commitment that he will notify the U.S. Government, directly or through the exporter, whenever he enters into negotiations to export any product of the plant to any destination covered by § 779.4(f)(2)(ii), when such product is not identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List and requires a validated license for export to Country Group W by the information set forth in the applicable CCL entry in the paragraph titled "Validated License Required". The notification should state the product, quantity, country of destination, and the estimated data of the shipment.

Moreover, during the period of deferment, the remaining written assurance requirements of § 779.4 (f)(2)(ii) and (f)(2)(iii) as to plant products that are identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List, or are on the U.S. Munitions List, will be waived if the plant is located in one of the following COCOM countries: Australia, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, and the United Kingdom. This deferment applies to exports of technical data pursuant to any type of contract or arrangement, including licensing agreements, regardless of whether entered into before or after April 1, 1964.

(3) The required assurance may be made in the form of a letter or other written communication from the importer or, if applicable, the person in control of the distribution of the products of a plant; or the assurance may be incorporated into a licensing agreement that restricts disclosure of the technical data to be used only in authorized destinations, and prohibits shipment of the direct product thereof by the licensee to any unauthorized destination. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement, provided that the obligations of the importer set forth in the assurances survive any termination of the licensing agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained.

(4) In addition, this general license is not applicable to any export of technical data of the kind described in this § 779.4(f), if at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported directly or indirectly to any unauthorized destination.

(5) The limitations in this § 779.4(f) do not apply to the export of technical data included in an application for the foreign filing of a patent, provided such filing is in accordance with the regulations of the U.S. Patent Office.

* * * * *

60. Section 779.5 is amended:

a. By revising paragraph (a)(2);

b. By revising the phrase "9(a), 9(c) and 11" to read "9(a) and 11" in paragraph (b);

c. By revising the first sentence of paragraph (e)(1)(vii);

d. By revising paragraph (e)(2);

e. By removing paragraph (e)(3); and

f. By reserving footnotes 26 through 28.

§ 779.5 Validated license applications.

(a) * * *

(1) * * *

(2) A letter of explanation described in § 779.5(d) for technology or description of the capabilities of the software; and

* * * * *

(e) * * *

(1) * * *

(vii) A written statement of assurance from the foreign importer that unless prior authorization is obtained from the Office of Export Licensing, the importer will not knowingly export directly or indirectly to Country Group Q, S, W, Y, or Z, or Afghanistan or the People's Republic of China, the direct product of the technical data. * * *

(2) *Other license applications.* For all other license applications to export technical data identified in an entry with an ECCN ending in the code letter "A" to any destination, other than Country Group Q, S, W, Y, or Z, the People's Republic of China, or Afghanistan, an applicant shall attach to the license application a written statement from his foreign importer assuring that, unless prior authorization is obtained from the Office of Export Licensing, the importer will not knowingly reexport the technical data to any destination, or export any national security controlled direct product of the technical data, directly or indirectly, to Country Group Q, S, W, Y, or Z, or the People's Republic of China, or Afghanistan. However, if the U.S. exporter is not able to obtain the required statement from his importer, the exporter shall attach an explanatory statement to his license setting forth the reasons why such an assurance cannot be obtained.

* * * * *

61. Section 779.8 is amended:

a. By revising the phrase "§ 779.5(e)(1) or (2)" to read "§ 779.5(e)(1)" in paragraph (a)(3);

b. By removing paragraph (b)(2);

c. By redesignating paragraphs (b)(3) and (b)(4) as paragraphs (b)(2) and (b)(3);

d. By revising newly designated paragraphs (b)(2) heading, introductory text, and (i); and

e. By revising newly designated paragraph (b)(3), as follows:

§ 779.8 Reexports of technical data and exports of the product manufactured abroad by use of United States technical data.

* * * * *

(b) * * *

(2) *COCOM countries.* Separate specific authorization by the Office of

Export Licensing to export or reexport any foreign-produced direct product of U.S. technical data from a COCOM participating country is not required if all of the following conditions are met:

(i) The items being exported:

(A) Are identified by a code letter "A" on the Commerce Control List; and

(B) Are not included in the Advisory Notes in any entry on the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) (the Advisory Notes for the People's Republic of China do not apply in meeting this requirement).

* * * * *

(3) *People's Republic of China.* Separate specific authorization by the Office of Export Licensing is not required to reexport software from a COCOM participating country, Austria, Finland, Sweden, Ireland, or Switzerland to the People's Republic of China that meets the requirements set forth in Advisory Notes for the People's Republic of China or for Country Groups Q, W, Y in the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) and are licensed for shipment by the country from which reexported.

* * * * *

§ 779.9 [Amended]

62. In section 779.9, the introductory text is amended by revising the phrase "provisions of § 779.4(b) (1) and (2) of this part" to read "provisions of § 779.4(b)".

Supplement No. 2 to Part 779 [Amended]

63. Supplement No. 2 to part 779 (Technical Data) is amended:

a. By revising in paragraph (1) the parenthetical reference "(ECCN 1093)" to read "(ECCNs 2B01 and 2B41)";

b. By revising in paragraph (2)(b) the parenthetical reference "(ECCN 2118)" to read "(ECCN 1B18)";

c. By revising in paragraph (3) the parenthetical reference "(ECCN 2018)" to read "(ECCN 2B18)" and the parenthetical reference "(ECCN 5399)" to read "(ECCN 2B85)";

d. By revising in paragraph (4) the parenthetical reference "(ECCN 2317)" to read "(ECCN 8A18)";

e. By revising in paragraph (5)(e) the parenthetical reference "(ECCN 2406)" to read "(ECCN 9A18)";

f. By revising in paragraph (6) the parenthetical reference "(ECCN 2410)" to read "(ECCN 9A18)";

g. By revising in paragraph (7) the parenthetical reference "(ECCN 2603)" to read "(ECCN 0A18)";

h. By revising in paragraph (8) the parenthetical reference "(ECCN 5998)" to read "(ECCN 0A84)";

i. By revising in paragraph (9) the parenthetical reference "(ECCN 6998)" to read "(ECCN 0A86)";

j. By revising in paragraph (10) the parenthetical reference "(ECCN 2410A)" to read "(ECCN 9A18)";

k. By revising in paragraph (11) the parenthetical reference "(ECCN 2409A)" to read "(ECCN 8A18)"; and

l. By revising in paragraph (12) the parenthetical reference "(ECCN 2901A)" to read "(ECCN 0A18)".

Supplement No. 3 to Part 779 [Removed and Reserved]

64. Supplement No. 3 to part 779 is removed and reserved.

Supplement No. 4 to Part 779 [Removed and Reserved]

65. Supplement No. 4 to part 779 is removed and reserved.

PART 785—[AMENDED]

66. Section 785.2 is amended by revising the section heading and paragraph (c) to read as follows:

§ 785.2 Country Groups Q, W, and Y;[1] U.S.S.R., Other Eastern European Countries, Albania, Mongolian People's Republic, and Laos.

* * * * *

(c) *Country Group W: Favorable consideration policy.* The countries of Poland, Hungary, and Czechoslovakia (Country Group W) have been determined to present a lesser strategic threat, and have adopted safeguard measures to protect against the diversion of COCOM controlled commodities and technical data. In recognition of these facts, and consistent with COCOM agreement, the Department will review, under favorable consideration procedures, applications to export or reexport to Poland, Hungary, or Czechoslovakia any U.S. origin commodity that is controlled under an Export Control Classification Number (ECCN) on the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) ending in the code letter "A", unless a *Group W Favorable Consideration* paragraph contained in the applicable entry lists the items as not being eligible for favorable consideration. Commodities not eligible for favorable consideration will be reviewed in accordance with the general exceptions policy described in paragraph (a) of this section. Commodities identified by Advisory Notes indicating a likelihood of approval to satisfactory end-uses in Country Group W will continue to be reviewed under national discretion procedures. The Department will also review, under favorable consideration procedures, all technical data and software destined to Poland, Hungary, and Czechoslovakia, except technical data described in ECCN 2E03, and software and technical data required for the design, development, production, or use of commodities excluded from these favorable consideration procedures.

[1] See Supplement No. 1 to part 770 of this subchapter for listing of Country Groups.

67. Section 785.4 is amended:

a. By revising the section heading and paragraph (a);

b. By revising paragraph (d);

c. By revising paragraph (e); and

d. By removing the parenthetical phrase at the end of paragraph (g)(1)(ii), as follows:

§ 785.4 Country Groups T and V.

(a) *Republic of South Africa.* In conformity with the United Nations Security Council Resolutions of 1963 and 1977 relating to the export of arms and munitions to the Republic of South Africa, and consistent with U.S. foreign policy toward the Republic of South Africa, the Department of Commerce has established the following special policies for commodities and technical data under its licensing jurisdiction.

(1) An embargo is in effect on the export or reexport to the Republic of South Africa of arms, munitions, military equipment and materials, and materials and machinery for use in the manufacture and maintenance of such equipment. Commodities to which this embargo applies are listed in Supplement No. 2 to part 779 of this subchapter.

(2) An embargo is in effect on the export or reexport to the Republic of South Africa of any commodity, including commodities that may be exported to any destination in Country Group V under a general license, where the exporter or reexporter knows or has reason to know that the commodity will be sold to or used by or for military or police entities in the Republic of South Africa or used to service equipment owned, controlled, or used by or for such military or police entities (See paragraphs (a)(5) and (a)(6) of this section for case-by-case exceptions).

(3) An embargo is in effect on the export or reexport to the Republic of South Africa of technology or software—except technology or software that meets the conditions of General License GTDA—where:

(i) The technology or software relate to the commodities listed in Supplement No. 2 to part 779 of this subchapter; or

(ii) The exporter or reexporter knows or has reason to know that the

technology or software, or their direct product, are for delivery to or for use by or for military or police entities of the Republic of South Africa or for use in servicing equipment owned, controlled or used by or for these entities (See paragraphs (a)(5) and (a)(6) of this section for case-by-case exceptions).

(4) Parts, components, materials, and other commodities exported from the United States under either a general or validated export license may not be incorporated abroad into foreign-made end-products where it is known or there is reason to know that the end-product will be sold to or used by or for military or police entities in the Republic of South Africa (See paragraphs § 776.12(b)(4) of this subchapter for general exceptions and (a)(5) and (a)(6) of this section for case-by-case exceptions).

(5) Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of items to be used in efforts to prevent acts of unlawful interference with international civil aviation.

(6) Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of medicines, medical supplies, medical equipment, parts and components therefor, and related technology, to any end-user in the Republic of South Africa.

(7) The South African administration of the port of Walvis Bay requires special attention because of the possibility that commodities, software, or technology entering Walvis Bay will be available to South Africa. Accordingly, shipments to and for consumption in Walvis Bay will be considered exports to South Africa. Shipments passing through Walvis Bay to Namibia are not subject to the controls on exports to South Africa. The purpose of this action is not to deny commodities to Namibia nor to imply recognition of South Africa's claim of sovereignty over Walvis Bay. Instead, the goal is to implement more effectively the foreign policy controls already in place for South Africa.

* * * * *

(d) *Syria and Iran.* (1) A validated license is required for foreign policy purposes for the export to Syria and/or Iran (countries that have repeatedly provided support for acts of international terrorism), of the following:

(i) All items subject to national security controls. Applications for export to Iran and Syria of these items will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity dates for Iran for items valued at $7 million or more, January 23, 1984, and for other items, September 28, 1984; for Syria December 16, 1986, except there is no contract sanctity for items valued at $7 million or more destined for military end-uses or end-users.)

(ii) All items subject to chemical and biological weapons proliferation controls. Applications for export to Iran and Syria of these items will generally be denied. (See § 778.8 of this subchapter.)

(iii) All dual-use items subject to missile proliferation controls (MTCR). Applications for export to Iran and Syria of these items will generally be denied. (See § 778.7 of this subchapter.)

(iv) All items subject to nuclear weapons proliferation controls (NRL). Applications for export to Iran or Syria of these items will be considered on a case-by-case basis. (See §§ 778.2 and 778.3 of this subchapter.)

(v) All military-related items. Applications for export to Iran or Syria of items controlled by CCL entries ending with the number "18" will generally be denied. (Contract sanctity dates for Iran, January 23, 1984, for Syria, December 16, 1986, except there is no contract sanctity for items valued at $7 million or more. See paragraph (d)(1)(i) of this section for contract sanctity dates for any military-related items that were subject to national security controls on January 23, 1984, for Iran, or December 16, 1986, for Syria.)

(vi) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components. Applications for export to Iran or Syria of these items will generally be denied. (Contract sanctity dates for aircraft parts and components in ECCN 9A94 for Iran, October 22, 1987, for Syria, August 28, 1991. Contract sanctity dates for other aircraft and engines for Iran, January 23, 1984; for Syria, December 16, 1986, except April 28, 1986, for helicopters 10,000 lbs. empty weight or less, and there is no contract sanctity for helicopters over 10,000 lbs. empty weight or fixed wing aircraft valued at $3 million or more.)

Note: The controlled U.S. content for purposes of the parts and components controls of § 776.12 includes aircraft engines and specially designed components (ECCNs 9A01, 9A21, and 9A91), inertial navigation systems (ECCN 7A03), and civil avionics (ECCNs 7A05, 7A25, 7A06, and 7A26).

(vii) Heavy duty, on-highway tractors. Applications for export to Iran or Syria of these items will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991.)

(viii) Off-highway wheel tractors exceeding 10 tons. Applications for export to Iran of these items will generally be denied to all end-users. Applications for export to Syria of these items will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991.)

(ix) Large diesel engines (greater than 400 horsepower) and parts to power tank transporters. Applications for export to Iran of such equipment will generally be denied. (Contract sanctity date for Iran, October 22, 1987.)

(x) Cryptographic, cryptoanalytic, and cryptologic equipment. Applications for export to Iran of any such equipment will generally be denied. For Syria, a license is required for all national security controlled cryptographic, cryptoanalytic, and cryptologic equipment. Applications for export to Syria will generally be denied. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any cryptographic, cryptoanalytic, or cryptologic equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xi) Navigation, direction finding and radar equipment. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, January 23, 1984, for items subject to national security control on August 28, 1991, October 22, 1987, for other items; for Syria, December 16, 1986, for items subject to national security control on August 28, 1991, and August 28, 1991, for other items.)

(xii) Electronic test equipment. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied to a military end-user or for military end-use. Applications for non-military end-users

or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any electronic test equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xiii) Mobile communications equipment. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any mobile communications equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xiv) Acoustic underwater detection equipment. Applications for export to Iran of any such equipment will generally be denied. For Syria, a validated license is required only for national security-controlled acoustic underwater detection equipment. Applications for export to Syria will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any acoustic underwater detection equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xv) Portable electric power generators. Applications for export to Iran of such equipment will generally be denied. (Contract sanctity date for Iran, October 22, 1987.)

(xvi) Vessels and boats, including inflatable boats. Applications for export to Iran of these items will generally be denied. For Syria, a license is required for national security controlled vessels and boats. Applications for export to Syria will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any vessels and boats, including inflatable boats, that were subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xvii) Marine and submarine engines (outboard/inboard, regardless of horsepower). Applications for export to Iran of these items will generally be denied. For Syria, a license is required for all national security controlled marine and submarine engines. Applications for export to Syria will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contact sanctity dates for Iran, September 28, 1984 for outboard engines 45 HP or more, October 22, 1987 for other engines, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any marine and submarine engines (outboard/inboard, regardless of horsepower) that were subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xviii) Underwater photographic equipment. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any underwater photographic equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xix) Submersible systems. Applications for export to Iran of such systems will generally be denied. Applications for export to Syria of such systems will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any submersible systems that were subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xx) Scuba gear and related equipment. Applications for export to Iran of such equipment will generally be denied. (No contract sanctity.)

(xxi) Pressurized aircraft breathing equipment. Applications for export to Iran of such equipment will generally be denied. (Contract sanctity date, October 22, 1987.)

(xxii) Computer numerical control machine tools. Applications for export to Iran or Syria of these items will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any computer numerical control machine tools that were subject to national security controls on August 28, 1991.)

(xxiii) Vibration test equipment. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any vibration test equipment that was subject to national security controls on August 28, 1991.)

(xxiv) Digital computers. Applications for export to Iran or Syria of such equipment will generally be denied for computers with a CTP of 6 or above if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any digital computers that were subject to national security controls on August 28, 1991.)

(xxv) Telecommunications equipment as follows:

(A) Radio relay systems or equipment operating at a frequency equal to or greater than 19.7 GHz or "spectral efficiency" greater than 3 bit/s/Hz; and

(B) Fiber optic systems or equipment operating at a wavelength greater than 1000 nm; or

(C) "Telecommunications transmission systems" or equipment with a "digital transfer rate" at the highest multiplex level exceeding 45 Mb/s.

Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any telecommunication equipment that was subject to national security controls on August 28, 1991.)

(xxvi) Microprocessors operating at a clock speed over 25 MHz. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any microprocessors operating at a clock speed over 25 MHz that were subject to national security controls on August 28, 1991.)

(xxvii) Semiconductor manufacturing equipment. For Iran or Syria, a validated license is required for all such equipment described in ECCNs 3B01 and 3B91. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991.)

(xxviii) Software specially designed for the computer-aided design and manufacture of integrated circuits. Applications for export to Iran or Syria of such software will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any software specially designed for the computer-aided design and manufacture of integrated circuits that were subject to national security controls on August 28, 1991.)

(xxix) Packet switches. For Iran or Syria, a validated license is required for all equipment described in ECCNs 5A03 and 5A94. Applications for export to Iran and Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any packet switches that were subject to national security controls on August 28, 1991.)

(xxx) Specially designed software for air traffic control applications that use any digital signal processing techniques for automatic target tracking or that have a facility for electronic tracking. Applications for export to Iran or Syria of such software will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any specially designed software for air traffic control applications that use any digital signal processing techniques for automatic target tracking or that have a facility for electronic tracking that was subject to national security controls on August 28, 1991.)

(xxxi) Gravity meters having static accuracy of less (better) than 100 microgal, or gravity meters of the quartz element (worden) type. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any gravity meters having static accuracy of less (better) than 100 microgal, or gravity meters of the quartz element (worden) type that were subject to national security controls on August 28, 1991.)

(xxxii) Magnetometers with a sensitivity lower (better) than 1.0 nt rms per square root Hertz. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any magnetometers with a sensitivity lower (better) than 1.0 nt rms per square root Hertz that were subject to national security controls on August 28, 1991.)

(xxxiii) Fluorocarbon compounds for cooling fluids for radar and supercomputers described in ECCN 1C94. Applications for export to Iran or Syria of such compounds will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any fluorocarbon compounds for cooling fluids for radar and supercomputers described in ECCN 1C94 that were subject to national security controls on August 28, 1991.)

(xxxiv) High strength organic and inorganic fibers (kevlar) described in ECCN 1C50. Applications for export to Iran and Syria of such fibers will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any high strength organic and inorganic fibers (kevlar) described in ECCN 1C50 that were subject to national security controls on August 28, 1991.)

(xxxv) Machines for cutting gears up to 1.25 meters in diameter described in ECCNs 2B03 and 2B93. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any machines for cutting gears up to 1.25 meters in diameter described in ECCNs 2B03 and 2B93 that were subject to national security controls on August 28, 1991.)

(xxxvi) Aircraft skin and spar milling machines. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See

paragraph (d)(1)(i) of this section for contract sanctity dates for any aircraft skin and spar milling machines that were subject to national security controls on August 28, 1991.)

(xxxvii) Manual dimensional inspection machines described in ECCN 2B92. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any manual dimensional inspection machines described in ECCN 2B92 that were subject to national security controls on August 28, 1991.)

(xxxviii) Robots capable of employing feedback information in real time processing to generate or modify programs. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any robots capable of employing feedback information in real time processing to generate or modify programs that were subject to national security controls on August 28, 1991.)

(2) Applications for Iran will be considered on a case-by-case basis if:

(i) The transaction involves the reexport to Iran of items where Iran was not the intended ultimate destination at the time of original export from the United States provided that the export from the U.S. occurred prior to the applicable contract sanctity date (or, where the contract sanctity date is October 22, 1987, prior to November 27, 1987).

(ii) The U.S. content value of foreign-produced commodities is 20% or less by value; or

(iii) The commodities will be used for humanitarian purposes.

(3) Applications for Syria will be considered on a case-by-case basis if:

(i) The transaction involves the reexport to Syria of items where Syria was not the intended ultimate destination at the time of original export from the United States, provided that the exports from the U.S. occurred prior to the applicable contract sanctity date (or where the contract sanctity date is December 16, 1986, prior to June 18, 1987).

(ii) The U.S. content of foreign-produced commodities is 20% or less by value; or

(iii) The commodities are medical equipment.

(4) Applicants who wish contract sanctity or any of the factors described in paragraphs (d)(2) or (d)(3) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the existence of the pre-existing contract, the specifications and intended humanitarian or medical use of the equipment, or the date of export from the United States.

Note: Exports of items in performance of contracts entered into before the applicable contract sanctity date(s) will be eligible for review on a case-by-case basis. The contract sanctity dates set forth above are for exporter's guidance. Contract sanctity dates are established in the course of the imposition of foreign policy controls on specific items and are the relevant dates for the purpose of licensing determinations involving such items. If exporters believe that a specific contract sanctity date is applicable to their export transaction, they should include all relevant information with their export license application.

(5) The reexport provisions of part 774 of this subchapter and the parts and components provisions of § 776.12 of this subchapter do not apply to the foreign policy controls on Iran, in paragraph (d)(1) of this section, for ECCNs 2A94, 3A93, 5A92, 5A95, 6A91, 7A94, 8A92, 8A94, 9A92, and 9A94. However, the export of these commodities from the United States to any destination with knowledge that they will be reexported, directly or indirectly, in whole or in part, to Iran is prohibited without an individual validated license.

(e) *Iraq.* (1) Iraq has been designated by the Secretary of State as a nation that has repeatedly supported acts of international terrorism.

Note: Pursuant to Executive Orders 12722 and 12724 of August 2 and August 9, 1990 (3 CFR, 1990 Comp., pp. 294 and 297), respectively, the Department of Treasury's Office of Foreign Assets Control (OFAC) has published regulations prohibiting transactions with the government of, and persons in, Iraq. The Iraqi Sanctions Regulations (31 CFR 575.205) provide that "no goods, technology (including technical data or other information), or services may be exported from the United States or, if subject to U.S. jurisdiction, exported or reexported from a third country to Iraq, to any entity owned or controlled by the Government of Iraq," except as otherwise authorized. Absent any required OFAC license, no BXA general license or other authorization may be used for export to Iraq. An authorization from OFAC shall also constitute authorization under the Export Administration Regulations (15 CFR parts 730–799).

(2) OFAC's Iraqi Sanctions Regulations are amended from time to time. Exporters are advised to consult with OFAC for authorization to export or reexport to Iraq. (Office of Foreign Assets Control, 1500 Pennsylvania Avenue N.W. Annex, Washington, D.C. 20220, Telephone (202) 566–2701.)

* * * * *

68. Section 785.6 is amended by revising paragraph (a) to read as follows:

§ 785.6 Canada.

* * * * *

(a) The technical data described in § 779.5(e) of this subchapter unless the technical data may be exported under the provisions of General License GTDA; or

* * * * *

69. In section 785.7, the first sentence of paragraph (d) is revised to read as follows:

§ 785.7 Country Group S; Libya.

* * * * *

(d) A validated license is required for foreign policy purposes for the export or reexport to Libya of any aircraft (including) helicopters) and any parts and accessories for aircraft controlled by ECCNs 6A08, 6A28, 6A29, 6A30, 6A90, 7A01, 7A21, 7A02, 7A22, 7A03, 7A23, 7A04, 7A24, 7A05, 7A25, 7A06, 7A26, 7A27, 7A94, 9A01, 9A21, 9A03, 9A18.a, 9A18.d, 9A91, and 9A94. * * *

* * * * *

Supplement No. 1 to Part 785 [Removed and Reserved]

70. Supplement No. 1 to Part 785 is removed and reserved.

PART 786—[AMENDED]

71. Section 786.6 is amended by revising paragraph (a)(1)(ii) and paragraph (c)(2) as follows:

§ 786.6 Destination control statements.

(a) * * *

(i) * * *

(ii) General License GLV, GLR, GFW, GCT, or G–TEMP.

* * * * *

(c) * * *

(2) *General license shipments.* For a shipment under any general license, except General License GCT, any of the three destination control statements in paragraph (d) of this section may be

used. For shipments under General License GCT, exporters must use Statement No. 1 or 2.

PART 790—[AMENDED]

72. Section 790.6 is amended by revising the first sentence to read as follows:

§ 790.6 General order preventing the use of special licensing procedures for aircraft controlled by Iran.

Effective September 28, 1984, the special license procedures (including outstanding or future authorizations) described in part 773 of this subchapter may not be used to provide aircraft parts and accessories (ECCNs 6A08, 6A28, 6A29, 6A30, 6A90, 7A01, 7A21, 7A02, 7A22, 7A03, 7A23, 7A04, 7A24, 7A05, 7A25, 7A06, 7A26, 7A27, 7A94, 9A01, 9A21, 9A03, 9A18.a, 9A18.d, 9A91, and 9A94) intended for aircraft (wherever located) owned, operated, or controlled by, or under charter or lease to Iran, or any of its nationals; except that for regularly scheduled civilian airlines, such procedures may be used up to October 18, 1984. * * *

PART 799—[AMENDED]

73. In section 799.1, paragraph (d)(1)(i) is revised to read as follows:

§ 799.1 The commerce control list and how to use it.

* * * * *

(d) * * *

(1) * * *

(i) Validated license requirements by country group and, at times, special country lists or individual destinations. By identifying the countries subject to validated license, this also tells the exporter when General License G–DEST is available for commodities. Note that G–DEST is never available for software or technology.

* * * * *

74. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 1 (Materials), ECCN 1C60C is amended by revising the Requirements section to read as follows:

1C60C Precursor and Intermediate Chemicals Used in the Production of Chemical Warfare Agents.

Requirements

Validated License Required: QSTVWYZ, except Australia, Austria, Belgium, Denmark, Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

Units: Liters or kilograms as appropriate

Reason for Control: CB

GLV: $0

GCT: No

GFW: No

Notes: 1. *Sample Shipments:* General License G–DEST is available for one sample shipment of a 55-gallon container (209 liters) or less of each chemical to any one consignee per calendar year (not applicable to Iran, Iraq, or Syria).

2. *Compounds:* General License G–DEST is available, except to Country Groups S and Z, and the South African military and police, for compounds that are created from chemicals controlled under this ECCN 1C60C provided that the compound itself is not controlled under this ECCN or another ECCN on the CCL. (Mixtures that contain chemicals controlled under this ECCN are controlled as precursors, except when the precursor chemical is merely an impurity that was not intentionally added or is a normal ingredient in consumer goods intended for retail sales.)

* * * * *

75. In supplement No. 1 to § 799.1 (the Commerce Control List), Category 1 (Materials), a new ECCN 1D60C is added between 1D23B and 1D96G, and new ECCNs 1E60C, 1E61B, and 1E70E are added between 1E25B and 1E96G, as follows:

1D60C Software for Process Control That is Specifically Configured to Control or Initiate Production of the Chemical Precursors Controlled by ECCN 1C60

Requirements

Validated License Required: QSTVWYZ, *except* Australia, Austria, Belgium, Denmark, Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

Unit: $ value

Reason for Control: CB

GTDR: No

GTDU: Only to countries listed above as not subject to validated license.

1E60C Technology for Production of Chemical Precursors Described in ECCN 1C60, and Technology as Described in the List Below for Facilities Designed or Intended to Produce Chemicals Described in ECCN 1C60

Requirements

Validated License Required: QSTVWYZ, *except* Australia, Austria, Belgium, Denmark, Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

Reason for Control: CB

GTDR: No

GTDU: Only to countries listed above as not subject to validated license.

List of Items Controlled

a. Overall plant design;

b. Design, specification, or procurement of equipment;

c. Supervision of construction, installation, or operation of complete plant or components thereof;

d. Training of personnel; and

e. Consultation on specific problems involving such facilities.

1E61B Technology for Production of Microbiological Commodities Described in ECCN 1C61

Requirements

Validated License Required: QSTVWYZ

Reason for Control: CB

GTDR: No

GTDU: No

1E70E Technology for Production of Commodities Described in ECCNs 1B70, 1B71, 1C64, and 1C65 (Equipment That can be Used in Production of Chemical Warfare Agents or Their Precursors, or of Biological Agents)

Requirements

Validated License Required: SZ, Supp. 5 to part 778 of this subchapter

Reason for Control: CB

GTDR: No

GTDU: Yes, except Supp. 5 to part 778 of this subchapter

76. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 2 (Materials Processing), is amended by adding a new entry for ECCN 2B85F immediately following ECCN 2B54B to read as follows:

2B85F Equipment Specially Designed for Manufacturing Shotgun Shells; and Ammunition Hand-Loading Equipment for Both Cartridges and Shotgun Shells

Requirements

Validated License Required: SZ, and the Republic of South Africa

Unit: $ Value

Reason for Control: FP

GLV: $0

GCT: No

GFW: No

Notes: These commodities are subject to the arms embargo and require a validated license for all exports to South Africa.

77. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 3 (Electronics Design, Development and Production), ECCN 3A93F is amended

by revising the heading of the entry to read as follows:

3A93F Electronic Test Equipment in Category 3A, n.e.s.

* * * * *

78. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9A91F is revised to read as follows:

9A91F Other Aircraft and Certain Gas Turbine Engines

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police
Unit: Number
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

List of Items Controlled

a. Military aircraft, demilitarized (not specifically equipped or modified for military operation), as follows:

a.1. Cargo, "C–45 through C–118" inclusive, and "C–121";

a.2. Trainers, bearing a "T" designation and using piston engines;

a.3. Utility, bearing a "U" designation and using piston engines;

a.4. Liaison, bearing an "L" designation; and

a.5. Observation, bearing an "O" designation and using piston engines; and

b. Other nonmilitary aircraft, except those defined in other Category Nine ECCNs.

Note: Specify make and model of aircraft and type of avionic equipment on aircraft.

c. Aero gas turbine engines not controlled by 9A01 or 9A21, and specially designed parts therefor.

Note: 9A91.c does not control aero gas turbine engines that are destined for use in civil "aircraft" and that have been in use in bona fide civil "aircraft" for more than eight years. (See 9A94F.)

79. Supplement No. 1 to § 799.2 (Interpretations) is amended:

a. By removing paragraph 1.(b) in Interpretation 1;

b. By removing paragraph 2. in Interpretation 1;

c. By revising Interpretation 2;

d. By removing and reserving Interpretation 3;

e. By revising paragraph (a) in Interpretation 6;

f. By revising Interpretation 7;

g. By removing the phrase "(a)" from the heading of the paragraph and removing paragraph (b) in Interpretation 20; and

h. By revising Interpretation 21, as follows:

Supplement No. 1 to § 799.2—Interpretations

* * * * *

Interpretation 2: Anti-friction Bearing or Bearing Systems and Specially Designed Parts

(a) An anti-friction bearing or bearing system physically incorporated in a segment of a machine or in a complete machine prior to shipment loses its identity as a bearing and the machine or segment of machinery containing the bearing is the item subject to export control requirements.

(b) An anti-friction bearing or bearing system not incorporated in a segment of a machine prior to shipment, but shipped as a component of a complete unassembled (knocked-down) machine, is considered a component of a machine, and the complete machine is the item subject to export license requirements.

(c) Anti-friction bearings or bearing systems shipped as spares or replacements are classified under ECCNs 2A01 through 2A06 and 2A96 (ball, roller, or needle-roller bearings and parts). This applies to separate shipments of anti-friction bearings or bearing systems and anti-friction bearings or bearing systems shipped with machinery or equipment for which they are intended to be used as spares or replacement parts.

* * * * *

Interpretation 6: Telecommunications Equipment and Systems

* * * * *

(a) Control equipment for paging systems (broadcast radio or selectively signalled receiving systems) is defined as circuit switching equipment in CCL Category 5.

* * * * *

Interpretation 7: Numerical Control Systems

(a) *Classification of "Numerical Control" Units.* "Numerical control" units for machine tools, regardless of their configurations or architectures, are controlled by their functional characteristics as described in ECCN 2B01.a. "Numerical control" units include computers with add-on "motion control boards". A computer with add-on "motion control boards" for machine tools may be controlled under ECCN 2B01.a even when the computer alone without "motion control boards" is not subject to validated licensing requirements under Category 4 and the "motion control boards" are not controlled under ECCN 2B01.b.

(b) *Export documentation.* (1) When preparing an export license application for a numerical control system, the machine tool and the control unit are classified separately. If either the machine tool or the control unit requires a validated license, then the entire unit requires a validated license. If either a machine tool or a control unit is exported separately from the system, the exported component is classified on the export license application without regard to the other parts of a possible system.

(2) When preparing the Shipper's Export Declaration (SED), however, a system being shipped complete (i.e., machine and control unit), should be reported under the Schedule B number for each machine. When either a control unit or a machine is shipped separately, it should be reported under the Schedule B number appropriate for the individual item being exported.

* * * * *

Interpretation 21: Civil Aircraft Inertial Navigation Equipment

(a) The Department of Commerce, Office of Export Licensing (OEL), has licensing jurisdiction over exports to all destinations of standard civil aircraft inertial navigation equipment that is certified by the Federal Aviation Administration (FAA) as standard equipment in civil aircraft as follows:

(1) Complete units mounted in civil aircraft;

(2) Separate units and spare parts to be incorporated into civil aircraft;

(3) Separate units and spare parts to be used for maintenance and repair of inertial navigation equipment; and

(4) Technology relating to the installation, assembly, maintenance, repair or operation of inertial navigation systems described above, or their parts, components, or subsystems (including accelerometers and gyroscopes).

(b) The Department of State, Office of Defense Trade Controls (DTC), retains licensing jurisdiction over all of the following:

(1) Exports to any destination of inertial navigation systems, and specially designed components therefor (including spare parts), that are not standard equipment in civil aircraft and are not certified by the Federal Aviation Administration (FAA) as being an integral part of civil aircraft;

(2) All exports to any destination of technology relating to the design, development, production, or manufacture of inertial navigation equipment, its related parts, components, or subsystems; and

(3) Exports of technology relating to the repair of parts, components, or subsystems of inertial navigation systems (including accelerometers and gyroscopes) not certified by the FAA as being an integral part of civil aircraft.

Dated: December 20, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AB93

National Capital Region Parks: Prohibition of Storage of Property in Lafayette Park

AGENCY: National Park Service, Department of the Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the National Capital Region Parks regulations in § 7.96 of title 36 Code of Federal Regulations and limits the storage of property in Lafayette Park. The National Park Service has determined that Lafayette Park has become increasingly littered by the storage of assorted property such as construction materials, tarps, bedding, pillows, sleeping bags, tools, food, luggage, clothing and other similar property. The Park Service believes that the storage of such property has a negative impact on the enjoyment of the Park by the visiting public. An earlier restriction prohibiting the storage of property in Lafayette Park was imposed as a condition for a demonstration permit. This prohibition was declared invalid because it had not been published for notice and comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553. This rule limits the storage of property in Lafayette Park for demonstrator and nondemonstrator alike.

EFFECTIVE DATE: April 6, 1992.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, telephone: (202) 619-7223; Richard G. Robbins, Assistant Solicitor, National Capital Parks, Office of the Solicitor, Department of the Interior, Washington, DC 20240, telephone: (202) 208-4338.

SUPPLEMENTARY INFORMATION: The following persons participated in the writing of this rule: Richard G. Robbins and Randolph J. Myers, Office of the Solicitor, Department of the Interior

Background

The National Park Service proposed a rule that would prohibit the storage of certain property in Lafayette Park. 55 FR 40679 (October 4, 1990). Copies of the proposed rule were distributed to demonstrators in Lafayette Park on several occasions, and were mailed to the American Civil Liberties Union.

Under National Park Service regulations, groups numbering over twenty-five participants must apply for a permit to demonstrate. For several years, the National Park Service imposed as a condition for a demonstration permit a restriction on the storage of property in Lafayette Park. However, that restriction was invalidated by the United States Court of Appeals for the District of Columbia Circuit because it had not been published for notice and comment pursuant to the Administrative Procedure Act. *United States* v. *Picciotto*, 875 F.2d 345 (DC Cir. 1989). The Court recognized, however, that the Park Service can promulgate, and has promulgated, regulations governing activities in all National Capital Region parks, including restrictions on demonstrations and special events, some applying to all parks in this area and some applying only to specific parks.

Analysis of Comments

The National Park Service received fifty-two written comments concerning the proposed rule (in addition to assorted photographs of Lafayette Park and five requests for the rulemaking). Comments were received from five organizations, four representatives of the legal community, and one office within the National Park Service. Two commenters supported the proposed rule as written. One commenter opposed the proposed rule as excessively lenient. Forty-nine commenters, including one petition with approximately three thousand signatures, opposed the proposed rule.

Among those who opposed the proposed rule, several commenters stated that they believed that the rule was an attempt to enable police to oust demonstrators from Lafayette Park. One commenter stated that, while there are outstanding park resources and visitor values that need to be protected, the real problem in the park that the Park Service is trying to address is homelessness within the view of the White House. Many commenters and the petition expressed the view that the rule was a burdensome and unnecessary restriction on freedom of thought and expression and that it was a regulatory attempt to negate constitutionally protected rights under the guise of protecting aesthetics.

The National Park Service respectfully disagrees. The rule does not restrict, and is not intended to restrict, freedom of thought or expression. Nor does it prohibit demonstrations in Lafayette Park. Demonstrators remain free to utilize Lafayette Park and to distribute literature, march, speak, hold vigils, and otherwise communicate their views.

The National Park Service's concerns for aesthetics and park resources in Lafayette Park are proper and legitimate governmental interests. The rule is a reasonable, content-neutral limitation on property storage in order to protect park resources and the unique aesthetic quality of Lafayette Park so that visitors may continue to enjoy the history and beauty of the park. At the same time, the rule allows demonstrators to continue to enjoy ample avenues of communication in and around Lafayette Park.

Some commenters stated that stored material in Lafayette Park constitutes neither a "visual blight" nor an "unsightliness." Instead, these commenters stated that the presence of demonstrators in Lafayette Park, in conjunction with their assorted property and signs, is beautiful, and that a contrary characterization reflects a political bias against the demonstrators. Another commenter stated that the proposed rule was based on the content of demonstrators' "distasteful expression of political dissent." One commenter stated that "perhaps the annoyance of seeing sleeping bags all over the place will motivate tourists to pressure their representatives to push for affordable housing."

The National Park Service has no bias against demonstrations or against the homeless, and the rule neither limits nor is intended to limit expression on any subject matter. The purpose of the rule is solely to address aesthetic and park protection concerns raised by the storage of property in Lafayette Park by any person, demonstrator and nondemonstrator alike. Further, the rule is not intended to address signs that are being displayed.

One commenter stated that the regulation would disallow signs large enough to be read by the public in Lafayette Park. The National Park Service disagrees. The regulation has no impact on, and is not intended to address signs that are being displayed. A separate existing regulation governs signs. See 36 CFR 7.96(g)(5)(x)(B) (1990).

The National Park Service has a legitimate public interest in limiting the storage of property in Lafayette Park, by demonstrators or others. Where demonstrators may be storing property in Lafayette Park, the rule limiting the storage of property is without regard to the nature of the message they may be communicating.

While there may be conflicting opinions regarding the aesthetic qualities of storing property in Lafayette Park, the National Park Service, based

in part on complaints from the visiting public over the years, believes that it detracts from the aesthetic values of the Park to have excessive amounts of clothing, shoes, bedding, blankets, sleeping bags, construction materials and household items stored within Lafayette Park, and that visitor enjoyment of Lafayette Park is diminished by such storage.

Further, the storage of property has caused damage to park resources in Lafayette Park. Water sprinkler system heads have been destroyed when property was stored on top of them. Grass has been likewise destroyed and bare spots caused on the lawn when property was stored at a fixed location over several days. Paint that was stored within the park has been spilled on walkways.

The National Park Service believes that the rule does not burden expression, and that even if it were to, any burden would be indirect and insubstantial. The rule does not address expressive activity and has no direct impact on expression. Under the rule, demonstrations continue to enjoy numerous modes of expression and may engage in a wide variety of expressive conduct in Lafayette Park. The rule merely limits, to a minor degree, the ability of persons to store excessive quantities of property within Lafayette Park. Finally, the regulation is not an isolated attempt to regulate the aesthetics of the appearances of Lafayette Park. As detailed in the proposed rule, this is but one element of a continuing effort by the National Park Service to preserve and enhance Lafayette Park for the enjoyment and use of the public.

The American Civil Liberties Union (ACLU) submitted three photographs of property they stated was left unattended in Lafayette Park. The ACLU suggested that before the National Park Service considers any rule regarding the storage of property in Lafayette Park it should enforce the existing abandoned property regulation. Further, the ACLU quoted several Lafayette Park demonstrators, who indicated that Park Police officers paid virtually no attention to large mounds of property left in the park by "street people" while quickly confiscating the signs of demonstrators who leave the park for a "few quick minutes."

The United States Park Police have attempted fairly and uniformly to enforce existing regulations regarding abandoned property and unattended property in Lafayette Park, regardless of whether the property belongs to demonstrators, "street people," tourists, casual visitors or others.

Increased enforcement activity under existing regulations, as suggested by the ACLU, was attempted in Lafayette Park recently without measurable improvement in the problem of stored property. With the advent of Operation Desert Storm, and corresponding enhanced public safety concerns, the Park Police increased its presence in the White House area including Lafayette Park. Between January 16, 1991, and April 1, 1991, there was an added effort to enforce all existing regulations including the abandoned property regulation. Notwithstanding that increased enforcement effort, the problem of property storage in Lafayette Park remained, primarily because there is no current limitation which specifically relates to the storage of property in Lafayette Park. Existing regulations were not designed to address, have not cured, and cannot resolve the problem of property storage in Lafayette Park.

The ACLU, and other commenters, also criticized the three cubic feet limit on personal property, stating that as applied to a demonstrator who is conducting a 24-hour vigil, it is insufficient and would severely restrict the rights of individuals conducting such vigils. The ACLU suggested that the limit be abandoned, greatly increased, or modified to exclude literature and paper and that the 24-hour period standard be omitted. Otherwise, the ACLU stated, demonstrators conducting 24-hour vigils would be severely hampered in their ability to communicate their ideas to the public. In addition, another commenter, who identified himself as a demonstrator currently conducting a 24-hour vigil in Lafayette Park, stated that, with more than three million people visiting the park each year, the three cubic feet limit was insufficient to allow adequate quantities of literature for distribution. Along with his written comments, he enclosed approximately one cubic foot of literature, which, he stated, represented only a sample of printed material discussed and distributed during the course of his vigil; he stated that he needed to have at least nine cubic feet of literature in Lafayette Park to assure sufficient quantities for distribution.

The final rule does not contain a 24-hour standard, although the 3 cubic feet limit is retained. The regulation neither interferes, nor is intended to interfere, with demonstrators' exercise of their first amendment rights. The regulation seeks only to prohibit the storage of excessive property, not necessary to facilitate expressive activity, within Lafayette Park. Indeed, it is less stringent than the old rule, which did not stifle free expression. It permits quantities of literature, food, clothing, blankets and a reasonable cover, so long as that property is contained within three cubic feet and is attended. Although tarps are generally prohibited because they constitute a visual blight, interfere with reasonable enforcement, and may blow away, small plastic or other reasonable covers cause fewer aesthetic problems and are therefore permitted. In addition, while blankets may be used as a camping accoutrement, the National Park Service recognizes that some people use them as clothing.

Three cubic feet is the approximate size of a large duffle bag; over 13,000 sheets of letter-size paper (8½" × 11") may be contained within three cubic feet. While a demonstrator conducting a sustained vigil may own property in excess of three cubic feet, and over the course of a period of time may wish to distribute more than three cubic feet of literature, the National Park Service believes that there is no first amendment requirement that such a demonstrator be allowed to keep all of his or her property in Lafayette Park. The National Park Service believes that a large duffle bag of gear, some or all of which may be literature, is more than sufficient to facilitate a demonstration for a reasonable period and would not hamper demonstrators in their ability to communicate ideas to the public. Further, if some or all of their literature is handed out (or their food is consumed) over time, demonstrators are always free to replace such materials within the three cubic foot limitation.

Compliance with Other Laws

The National Park Service has determined that this rule is not a major rule under E.O. 12291 and certifies that this rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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.*

This rule does not constitute a major Federal action which significantly affects the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

This rule is not a policy that has takings implications under E.O. 12630.

List of Subjects in 36 CFR Part 7

National Capital Region parks, National parks.

PART 7—NATIONAL CAPITAL PARKS REGULATIONS

In consideration of the foregoing, part 7 of title 36 of the Code of Federal Regulations is accordingly amended.

1. The Authority citation for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Section 7.96 is amended by redesignating paragraphs (j) and (k) as (k) and (l) and adding a new paragraph (j) to read as follows:

§ 7.96 National Capital Region parks.

* * * * *

(j) (1) In Lafayette Park the storage of construction material, tools, lumber, paint, tarps, bedding, luggage, pillows, sleeping bags, food, clothing, literature, papers and all other similar property is prohibited.

(2) Notwithstanding (j)(1) of this section, a person in Lafayette Park may have literature, papers, food, clothing, blankets and a reasonable cover to protect such property, occupying up to three (3) cubic feet of space, so long as such property is attended at all times while in the Park (the term "attended" is defined as a person being within three (3) feet of his or her property).

* * * * *

Dated: November 7, 1991.

Mike Hayden,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 92–2763 Filed 2–5–92; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50585C; FRL–3934–4]

RIN 2070–AB27

Sulfurized Alkylphenol; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described generically as sulfurized alkylphenol, which is the subject of premanufacture notice (PMN) P–89–708, and which is subject to a TSCA section 5(e) consent order issued by EPA. This rule would require certain persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

DATES: The effective date of this rule is April 6, 1992. This rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on February 20, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. EB–543–B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: This SNUR would require persons to notify EPA at least 90 days before commencing manufacture, import, or processing of P–89–708 for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354), and July 27, 1989 (54 FR 31298), and October 31, 1990 (55 FR 45994), EPA promulgated amendments to the general provisions which apply to this SNUR. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated a "User Fee Rule" (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting significant new use notices to submit certain fees to EPA are discussed in detail in that **Federal Register** document. Interested persons should refer to these documents for further information.

III. Background

EPA published a direct final SNUR for the chemical substance which was the subject of PMN P–89–708 in the **Federal Register** of September 28, 1990, at 55 FR 39892. EPA received notice of intent to submit adverse comments during the 30 days following publication. Therefore, as required by § 721.160, the direct final SNUR for P–89–708 was withdrawn in the **Federal Register** of May 21, 1991 (56 FR 23227), and a proposed SNUR published in the **Federal Register** of May 21, 1991 (56 FR 23257). EPA received comments from one person, the original PMN submitter of the substance subject to this SNUR.

The comment provided was that the recordkeeping requirements of § 721.125(b) and (c) were too broad and burdensome on manufacturers and processors. Specifically, § 721.125(b) requires: Records documenting volumes of the substance purchased in the United States by processors of the substance, names and addresses of suppliers, and the corresponding dates. Similarly, § 721.125(c) requires: Records documenting the names and addresses (including shipment destination address, if different) of all persons outside the site of manufacture, importation, or processing to whom the manufacturer, importer, or processor directly sells or transfers the substance, the date of each sale or transfer, and the quantity of the substance sold or transferred on such date. Given that for P–89–708 processors may include distributors and

repackagers at thousands of individual retail and consumer sites, the commenter questioned whether EPA intended such recordkeeping requirements. The commenter also maintained that because this SNUR requires notification only if the production volume manufactured or imported exceeds the volume specified in the SNUR, the function of EPA recordkeeping requirements should be to assure that manufacturers observe this limit, and that records under § 721.125(a) would achieve this goal. In addition the commenter noted a similar problem concerning the large number of processors and users who would have to be notified of the SNUR requirements under § 721.5.

The language of § 721.125(b) and (c) is sufficiently broad that it could be interpreted as requiring recordkeeping by a large number of processors at thousands of retail and consumer sites. In the case of P-89-708 EPA agrees with the commenter that § 721.125(b) and (c) are not appropriate. Accordingly, the final rule does not require the recordkeeping at § 721.125(b) and (c). EPA does not intend such broad recordkeeping especially in light of the limited SNUR provisions, which require notice when a manufacturer or importer exceeds a certain production volume or when a person fails to provide risk notification.

In general EPA limits only the production volume manufactured or imported when it makes the finding under TSCA section 5(e)(1)(A)(ii)(II) (exposure based finding) that was the basis of action for the section 5(e) consent order for P-89-708. EPA agrees with the comment that in cases where EPA uses only the exposure based authority of TSCA the recordkeeping of § 721.125(b) and (c) may be unduly burdensome. In cases where there are other restrictions such as worker exposure, hazard communication, and limited distribution based on an unreasonable risk finding under TSCA, EPA may still cite 721.125(b) and (c) when appropriate.

The commenter also questioned the notification requirements in § 721.5 on the grounds that they could apply to a large number of processors and users. EPA believes, however, that this will not occur. Section 721.5 requires manufacturers, importers, and processors to notify each recipient of a substance subject to a SNUR of the requirements of that SNUR. Section 721.5(a)(2)(iii) also exempts manufacturers, importers, and processors, from such notification requirements when they can document that the recipient cannot undertake any significant new use described in the SNUR. Because the SNUR for P-89-708 contains only a production limit and risk notification provision for manufacturers or importers, further notification of the SNUR requirements is not required.

EPA will review future SNURs, especially those similar to P-89-708 that contain only a production volume limit and risk notification provision, to ensure that appropriate recordkeeping requirements are imposed. The recordkeeping requirements of § 721.125(b) and (c) are still appropriate for some SNURs. In addition the suggestion that recordkeeping requirements apply to a limited number or tiers of processors may also be appropriate in some cases.

IV. Substance Subject to This Rule

EPA is issuing significant new use and recordkeeping requirements for the following chemical substance under part 721 subpart E.

PMN number: P-89-708

Chemical name: (generic) Sulfurized alkylphenol.
CAS number: Not available.
Effective date of section 5(e) consent order: January 23, 1990.
Basis for action: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and that there may be significant or substantial human exposure.
Recommended testing: A 28-day oral assay (OECD Guideline No. 407) including neurotox battery (NTIS PB91-154617), and, for the highest dose group, extending histopathological examination to include testes, ovaries, and lungs, plus neuropathology (NTIS PB91-154617); an acute oral test according to 40 CFR 798.1175; an Ames assay (40 CFR 798.5265); and a mouse micronucleus test with substance administered intraperitoneally (40 CFR 798.5395). The PMN submitter has agreed not to exceed the production limit without completing these studies.
CFR citation: 40 CFR 721.1541.

V. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on September 28, 1990, as a direct final rule, that date will serve as the date after which uses will be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses regulated through this SNUR after September 28, 1990, will have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substances between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VI. Economic Analysis

EPA evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. However, EPA expects that the costs associated with this rule would be lower because the recordkeeping requirements at § 721.125(b) and (c) found in the direct final rule are not included in this rule. The Agency's complete economic analysis is available in the public record for this rule (OPPTS-50585C).

VII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS-50585C). The record includes basic information considered by the Agency in developing this rule and the

comment received. A public version of the record, without any CBI, is available in the TSCA Public Docket Office from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in Rm. NE-G004, 401 M St., SW., Washington, DC.

VIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule would not be a "major" rule because it would not have an effect on the economy of $100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately $4,500 to $11,000, including a $2,500 user fee payable to EPA to offset EPA costs in processing the notice.

EPA believes that, because of the nature of the rule and the substance involved, there would be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule would not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and has assigned OMB control number 2070-0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. However, EPA expects that the burden will be less for this rule than the direct final or proposed rules because the recordkeeping requirements of § 721.125(b) and (c) found in the direct final rule and proposed rules are not included in this rule.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: January 27, 1992.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607

2. By adding new § 721.1541 to subpart E to read as follows:

§ 721.1541 Sulfurized alkylphenol.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance described generically as sulfurized alkylphenol (PMN P-89-708) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(1)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified in § 721.125 (a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

[FR Doc. 92-2923 Filed 2-5-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

46 CFR Parts 515, 560 and 572

[Docket No. 91-20]

RIN 3072-AB17

Exemption of Certain Marine Terminal Arrangements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission amends 46 CFR parts 515, 560 and 572 to exempt certain marine terminal services agreements between common carriers by water and marine

terminal operators from the agreement filing requirements of the Shipping Act, 1916, the Shipping Act of 1984 and the Commission's implementing regulations thereunder, and to discontinue the Commission's tariff filing requirements for such matters. This action codifies Commission policy that has been in effect for the last 5½ years.

EFFECTIVE DATE: The amendments to 46 CFR parts 515, 560 and 572 shall become effective March 9, 1992.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification & Licensing, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission ("Commission") initiated this proceeding by publishing a Notice of Proposed Rulemaking in the **Federal Register** on May 15, 1991 (56 FR 22384) ("NPR"). The NPR solicited comment on a Proposed Rule ("Proposed Rule") to discontinue existing filing requirements for certain terminal services arrangements between marine terminal operators ("MTOs") and ocean common carriers.

The Proposed Rule would (1) establish an exemption from the agreement filing requirements of section 15 of the Shipping Act, 1916, 46 U.S.C. app. 814 ("1916 Act") and section 5 of the Shipping Act of 1984, 46 U.S.C. app. 1704 ("1984 Act") (collectively, "Shipping Acts") for terminal services agreements; (2) discontinue the Commission's terminal tariff filing requirements under 46 CFR part 515 for the marine terminal services provided under such arrangements; (3) withhold 1984 Act antitrust immunity for exempted arrangements as a condition of the exemption; and (4) exclude from the exemption all rates, charges, rules and regulations affecting terminal services or related facilities determined through marine terminal conference agreements.[1] Comments were also invited on an Alternative Proposal which would add a further condition to the exemption requiring that the actual minimum/maximum range of rates and charges for the services/facilities provided by the involved MTO be listed in the MTO's tariff.

Comments

Comments were received from public port interests, private-sector MTO/stevedore interests, common carriers which also operate marine terminals, foreign shipowners' interests, an association of ship owners, agents and stevedores, and the U.S. Department of Justice ("DOJ").[2] Replies to the Comments were received from public port interests, private-sector MTOs/stevedore interests, a common carrier which also operates marine terminals, and DOJ.[3] The Comments and Replies are summarized in the Appendix, which will not appear in the Code of Federal Regulations.

In general, ports favor either a variation of the Proposed Rule (with an additional requirement that copies of exempted arrangements be provided to the public upon request), or retaining current filing requirements. However, many urge clarification of the definitions that will be used under the Proposed Rule's exemption. Private-sector MTO/stevedores tend to favor the Proposed Rule. Carriers either urge the Commission to retain current requirements, or generally support the Proposed Rule. DOJ supports the Proposed Rule, but urges that it be expanded to encompass all MTO agreements, and that antitrust immunity be withdrawn from all MTO arrangements.

The principal concerns expressed by the Comments and Replies involve:

(A) The proposed exemption's application to rates determined through MTO conference agreements;

(B) The viability of the Alternative Proposal;

(C) The Commission's authority to remove antitrust immunity for the exempted activity;

(D) The disclosure/availability of exempted arrangements; and

(E) The need for contemporary definitions of marine terminal services and facilities before adoption of a final rule.

Discussion

The Commission has considered all of the Comments and Replies received in this proceeding and has determined to adopt the Proposed Rule, with certain changes which are discussed below (and certain other technical and editorial changes to enhance its clarity), as the Final Rule in this matter. Any Comments not expressly discussed have either been incorporated without discussion, have been found to be mooted by the changes incorporated into the Final Rule, or have been found to be irrelevant, without merit or beyond the scope of the proceeding.

A. The Exemption's Application to Rates Determined Through MTO Conference Agreements

The Proposed Rule's filing exemption did not cover rates, charges, rules and regulations affecting terminal services or related facilities determined through marine terminal conference agreements as defined in 46 CFR 560.307(b) and 572.307(b). The NPR solicited comment on whether the exemption should be narrowed to exclude rates, charges, rules and regulations determined through marine terminal discussion and interconference agreements, or alternatively, whether all collectively-determined matters should be exempted.

Commenters' views vary on this issue and their suggestions range from: (1) exempting all collectively-determined matters; to (2) exempting all collectively-determined matters conditioned on the public availability of the exempted arrangements; to (3) exempting all collectively-determined matters if the involved conference agreements provide for the right of independent action.

The Commission believes that excluding matters determined through discussion or interconference agreements from the exemption could diminish industry access to the exemption without serving any offsetting regulatory purpose. Also, as noted by NAS and others, there are practical problems with such limitations. In practice, it may be difficult in some cases to distinguish which rates and rules have actually been "determined through" an MTO discussion or interconference agreement, much less

[1] The Proposed Rule was modeled after the Waiver of Penalties . ("Waiver") that has been in effect since June 25, 1986. See Notice of Waiver of Penalties (51 FR 23154, June 25, 1986); Supplemental Notice of Waiver of Penalties (51 FR 36755, October 15, 1986); Second Supplemental Notice of Waiver of Penalties (52 FR 18744, May 19, 1987]. The Waiver provides that the Commission will not assess penalties against those that fail to file agreements or tariffs setting forth rates and charges for terminal services performed for common carriers by water.

The Waiver was in response to widespread industry uncertainty over the Commission's filing requirements for industry practices of combining terminal services and stevedoring services under a single transaction. For a background of the Waiver and subsequent Commission-related initiatives, please refer to pages 2 through 8 of the NPR.

[2] Comments were filed by the American Association of Port Authorities ("AAPA"); the California Association of Port Authorities; the Foreign Shipowners Association of the Pacific Coast; the Master Contracting Stevedore Association of the Pacific Coast, Inc. ("MCSAPC"); the National Association of Stevedores ("NAS"); the Gulf Seaports Marine Terminal Conference ("GSMTC"); the Northwest Marine Terminal Association; Stevedoring Services of America; the West Gulf Maritime Association; the Massachusetts Port Authority; the Port Authority of New York and New Jersey ("PANYNJ"); the Port of Seattle; the Port of Tacoma; the Tampa Port Authority ("Tampa"); American President Lines, Ltd. and Eagle Marine Services, Ltd. ("APL/Eagle"); Sea-Land Service, Inc.; Guam Port Authority ("Guam"); Jacksonville Port Authority; and DOJ.

[3] Replies to Comments were filed by NAS, AAPA, MCSAPC, GSMTC, PANYNJ, Tampa, APL/Eagle, Guam, and DOJ.

determine if the discussion of such matters—as opposed to fixing rates in a context where adherence is enforced—may disqualify certain MTO rates or rules from the filing exemption.

On the other hand, structuring an exemption with no limitations on MTO conference agreements would immunize from the antitrust laws unsupervised activity violative of those laws.[4] Because marine terminal conferences involve the fixing of and adherence to concertedly-determined courses of action, the Commission believes that their rates, charges, rules and regulations should not be encompassed by any filing exemption. The concerted, binding rate-fixing activity of the nature occurring in a marine terminal conference should be reflected in publicly available tariffs as a possible deterrent to the abuse of the immunized authority. Therefore, the Commission has determined to adopt the approach set forth in the Proposed Rule, thereby excluding from the exemption any rates, charges, rules and regulations determined through marine terminal conference agreements. However, the Commission does not see a need to structure an exemption in a manner excluding matters discussed by marine terminal discussion and interconference agreements, given the non-binding nature of their authority.[5]

B. The Alternative Proposal

The NPR also invited comments on an Alternative Proposal. The Alternative Proposal would have added a further condition to the exemption, which would have required MTO tariffs to list the actual minimum/maximum range of rates and charges for the services/facilities provided by the involved MTO. While several commenters believe such an approach warrants further consideration, the majority of Comments and Replies oppose it. The Commission has determined not to condition the exemption of marine terminal services arrangements in the manner contemplated in the Alternative Proposal but rather has decided to adopt the Proposed Rule as a Final Rule.

C. Antitrust Immunity

The Proposed Rule was limited by several conditions prompted by the criteria governing the Commission's exemption authority under section 35 of the 1916 Act, 46 U.S.C. app. 833a, and section 16 of the 1984 Act, 46 U.S.C. app. 1715.[6] One of these conditions was to withhold 1984 Act antitrust immunity from exempted arrangements.[7] The NPR stated that, absent any compelling arguments to the contrary, the removal of antitrust immunity appeared to be appropriate because the exempted activity occurs exclusively within the United States and the legislative history of the 1984 Act indicates that a removal of antitrust immunity is among the conditions the Commission may impose on a section 16 exemption.[8] Some commenters support this approach; indeed, DOJ urges the Commission to go beyond the scope of this proceeding and to discontinue antitrust immunity for all transactions involving this sector of the industry.

However, several commenters challenge the Commission's authority to remove the antitrust immunity for exempted agreements. They generally assert that the "plain language" of section 7(a)(1) of the 1984 Act confers antitrust immunity on agreements that are filed with the Commission or are exempt under section 16 of the 1984 Act, and, accordingly, that any removal of antitrust immunity for the exempted agreements should occur only through direct Congressional action. Moreover, Tampa states that it would not appear that Congress intended to confer authority on the Commission to remove antitrust immunity provided for under the Act, when such immunity is being reviewed by the Advisory Commission created under section 18 of the Act.[9]

The Commission is not persuaded that its exercise of its exemption authority under section 16 of the 1984 Act is necessarily limited by the language of section 7(a). Section 7(a) itself does not by its express terms limit the Commission's authority to condition exemptions.[10] And, the 1984 Act's legislative history specifically provides that the "conditions" available to the Commission under section 16 of the 1984 Act could include withdrawal of antitrust immunity.[11]

After consideration of the views expressed on this issue, the Commission has determined to proceed with the approach under the Proposed Rule, whereby 1984 Act antitrust immunity will be removed with respect to agreements which are not filed with the Commission pursuant to the Final Rule's exemption. The Comments filed on this issue have not convinced the Commission that it can effectively ensure that such exempted agreements, when not filed for Commission review, comply with Shipping Act standards and warrant immunity from the antitrust laws. Thus, while Shipping Act antitrust immunity will not be available to agreements that are not filed with the Commission pursuant to the Final Rule herein, for the reasons discussed below, such immunity will remain available to exempt agreements which are filed with the Commission voluntarily.

The NPR solicited comments on whether those desiring 1984 Act antitrust immunity for activity otherwise eligible for the proposed filing exemption should be afforded the option

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[4] The Proposed Rule's exemption would remove Shipping Act antitrust immunity for certain unfiled MTO/carrier terminal services agreements, as defined in the Proposed Rule. The Proposed Rule does not affect the antitrust immunity of the agreements that provide for the establishment of a marine terminal conference.

[5] The comments of such associations opposing the Proposed Rule's limitation on the exemption with regard to conferences may have confused their status with that of a conference agreement. In this regard, it is noted that groups such as the California Association of Port Authorities, the Northwest Marine Terminal Association and the Gulf Seaports Marine Terminal Conference do not literally meet the definition of "marine terminal conference agreement" under 46 CFR 572.307(b) because they do not enforce adherence to uniform marine terminal tariff matter, nor do they publish any common tariffs in which all members participate.

[6] The Shipping Acts' exemption standards require the Commission to find that an exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition (1984 Act only), or be detrimental to commerce. Both Shipping Acts authorize the Commission to attach conditions to any exemption.

[7] Unlike the 1984 Act, the 1916 Act does not explicitly confer antitrust immunity to exempted activity. Section 7 (a)(1) of the 1984 Act, 46 U.S.C. app. 1706, in pertinent part provides:

The antitrust laws do not apply to—

(1) Any agreement that * * * is exempt under section 16 of this Act from any requirement of this Act.

[8] We refer to an explanatory statement published in the Congressional Record at the request of the leadership of the House Judiciary and Merchant Marine and Fisheries committees to record "important changes" made as a result of certain compromises made by the two committees (Cong. Rec. H 8124 and 8125, October 6, 1983). The explanatory statement recites that the compromise resulted in new wording which "closely tracks that of section 35 of the Shipping Act of 1916", adding, "[t]he change permits the Commission to impose conditions upon such an exemption, including the partial or total removal of antitrust immunity for agreements or conduct that might be exempted from filing requirements."

The House version of section 16 representing the House committees' compromise was accepted by the Senate without change (H. Rept. 98-600, p. 42).

[9] Section 18 of the 1984 Act, 46 U.S.C. app. 1717, provides for a study of the effects of the 1984 Act and establishes the Advisory Commission on Conferences in Ocean Shipping to make recommendations to the President and to the Congress concerning conferences in ocean shipping. The topics listed for study under section 18 include the need for antitrust immunity for ports and marine terminals.

[10] It is noted that section 7(c) anticipates the Commission's removal of antitrust immunity under section 7(a). Section 7(c) provides, in part, that any determination by the Commission that results in the removal of the immunity to the antitrust laws set forth in section 7(a) shall not remove or alter the antitrust immunity for the period before the determination.

[11] See footnote 8, *supra*.

to file their agreements voluntarily under the waiting period exemption currently set forth at 46 CFR 572.307, and, thus, obtain such immunity. The majority of commenters support the "voluntary" filing proposal. However, DOJ urges the Commission to reject this approach on the basis that it is within the Commission's discretion to do so and such rejection would be consistent with the public interest in preserving competition in the MTO industry.

"Voluntary", or "optional" filing of exempted agreements is presently permitted under 46 CFR 572.301(b). This approach has been codified since the Commission's promulgation of its agreement rules under the 1984 Act, and was carried forward from the 1916 Act rules.[12] The Commission is not persuaded that it should now alter this policy. While DOJ urges the Commission to follow the Interstate Commerce Commission's ("ICC") lead with regard to TOFC/COFC deregulation, we believe that there are relevant differences. In particular, the ICC was addressing collective rate setting, not the provision of transportation-related services. Moreover, as recently as 1984, Congress enacted legislation explicitly reaffirming antitrust immunity for MTO agreements. The Commission does not believe it should impair access to the process created by Congress by those willing to disclose their activity.

D. Disclosure/Availability of Exempted Agreements

The Proposed Rule at 46 CFR 515.3(b)(2) required a certified true accounting of tariff matters exempted from the Commission's tariff filing requirements to be furnished to the Commission within 30 days of a Commission staff request. Private-sector MTOs/stevedores are concerned that the proposed requirement does not adequately provide for: Confidential treatment of information submitted upon Commission request; a reasonable recordkeeping time limit; or an explanation of what is meant by a "true accounting."

The Commission has reexamined the need for a separate record retention requirement with respect to the information no longer subject to tariff filing and has decided to delete it from the Final Rule. The record retention/disclosure provisions applicable to matter exempted from the Commission's agreement filing requirements at 46 CFR 560.301(f) and 572.301(f) will, however, apply.[13] These provisions require the parties to any agreement that has been exempted from filing to retain the agreement during its term and for a period of three years after its termination. The parties are also required to make the agreement available to the Commission during this period.

The Commission's agreement rules apply because the definition of a marine terminal services agreement,[14] as revised, includes matter exempted from tariff filing under the Final Rule. Arrangements between MTOs and carriers that might contain rates, charges, etc., subject to tariff filing fall within the definition of an agreement under the provisions of the Shipping Acts and, as such, are subject to the record retention and inspection requirements of parts 560 and 572.[15]

We believe that the withdrawal of proposed § 515.3(b) should satisfy the commenters' concerns. The agreement provisions that now otherwise apply, as described above, have a specified record-retention period of 3 years and do not provide for a "true accounting", as was the case for proposed § 515.3(b). As to the confidentiality issue, the Commission intends to protect from public disclosure any materials inspected pursuant to 46 CFR 560.301(f) and 572.301(f) to the fullest extent permitted by law.

Public port interests urge the Commission to require copies of exempted arrangements to be made available at reasonable cost to the general public upon request. They generally contend that, without such a condition, the exemption would place public operators at a competitive disadvantage. They note that some public agencies may still have their tariff and agreements available to the public through state "Freedom of Information Act" and other public disclosure statutes. Private-sector MTOs, on the other hand, point to the many competitive advantages enjoyed by the ports, and contend that it is not the Commission's proper role to level the playing field in this regard.

The Commission has considered the Comments urging that the exempted arrangements be available to the public and concludes such a condition for the exempted agreements would exceed the scope of this rulemaking. Moreover, it may negate the purpose of the exemption, and place a considerable additional administrative burden on the MTOs tasked with the processing of requests for exempted arrangements. Finally, it is noted that the scope of exempted arrangements may include activities of a confidential and/or unregulated (*e.g.*, stevedoring) nature which have not normally been available to the public, either before or during the 5-year Waiver.[16] The Commission believes it has sufficient oversight [17] over the exempted agreements and that it is not necessary to further condition the exemption with the requirement that exempted arrangements be made available to the public. However, the Commission will monitor activity exempted pursuant to the Final Rule herein to examine the exemption's overall impact.

The Commission retains its authority to adjudicate formal complaints of Shipping Act violations with regard to activity occurring under an unfiled arrangement which has been exempted.

E. Definitions of Marine Terminal Services/Facilities and Recodification of MTO Tariff and Agreement Rules

Several commenters recommend retention of the Commission's current

[12] Under the Commission's 1916 Act rules, agreements exempted from filing requirements have no explicit grant of antitrust immunity unless they are filed for 1916 Act approval.

[13] These requirements were not at issue in this proceeding.

[14] 46 CFR 560.104(a) defines the term "agreement", for 1916 Act purposes, as:

"* * * an agreement, or modification thereof, which is a written document and which reflects an understanding, arrangement, or undertaking, between two or more common carriers by water in interstate commerce or other persons subject to the Act which is required by section 15 of the Act to be filed with the Commission."

46 CFR 572.104(a) defines the term "agreement", for 1984 Act purposes, as:

"* * * an understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) entered into by or among ocean common carriers and/or marine terminal operators, but does not include a maritime labor agreement."

[15] The Commission's existing agreement filing requirements, 46 CFR 560.301(f) and 572.301(f), require exempted agreements to be retained by the parties and made available to the Commission's staff for inspection during the term of the agreement and for a period of three years after its termination.

[16] The Commission does not assert or claim jurisdiction over stevedoring activities. The dissent proposes that the preferable way to address the regulatory confusion, which our 5½-year old waiver of penalties has covered, is for the Commission to assert new jurisdiction over stevedoring activities. Not only is there some doubt about our legal ability to do so, there is no suggestion in the record that the Commission should do so, and no factual record supporting a need for such an extension of regulatory jurisdiction and interference.

[17] The Final Rule does not grant an exemption from the substantive Prohibited Acts standards set forth under section 10 of the 1984 Act, 46 U.S.C. app 1709; or from the so-called "general standard" of section 6(g) of the 1984 Act, 46 U.S.C. app. 1705; or from the counterparts to these standards under sections 15, 16 First and 17 of the 1916 Act, 46 U.S.C. app. 814–816. The Commission's agreement filing requirements provide that exempted agreements be retained by the parties and made available to the Commission's staff for a period of three years after the agreement's termination (46 CFR 560.301(f) and 572.301(f)).

definitions of terminal services and facilities, while others urge the Commission to first revise and update these definitions before proceeding further to a final rule in this matter.

Under the Final Rule, the definition of the term "marine terminal services agreement" in §§ 560.308(a)(1) and 572.310(a)(1) has been revised to make clear that the exemption does not cover agreements authorizing carriers to operate a marine terminal facility (as opposed to using a facility operated by an MTO). These definitional revisions in the Final Rule should obviate the need for any further definitional rulemaking proceedings.

Conclusion

The Commission finds that the exemption from agreement filing and discontinuance of certain terminal tariff filing requirements as provided for in the Final Rule will not substantially impair effective regulation, be unjustly discriminatory, be detrimental to commerce, or result in a substantial reduction in competition.

Few comments have specifically addressed the statutory exemption criteria and none have provided any convincing evidence that the exemption in the Final Rule would not meet those criteria. Moreover, the Final Rule adopted in this proceeding is modeled after the Waiver. During the five years the Waiver has been in effect, the Commission has not received any formal or informal complaints, requests or inquiries concerning adverse effects caused by the Waiver. For that matter, none of the commenters in this proceeding have demonstrated that the Waiver has caused any harm either to them individually or the industry as a whole, or shown that it has impaired the Commission's ability to carry out its statutory responsibilities. We believe, therefore, that the Waiver as carried forward in the Final Rule will not operate in a manner contrary to the exemption standards set forth in the Shipping Acts. This finding is buttressed by the fact that the full range of Shipping Act standards, e.g., the prohibitions of section 10 of the 1984 Act, will continue to apply to the activities exempted from the Commission's filing requirements.

The Commission believes that these statutory safeguards will ensure that the Final Rule will operate in a manner conforming with the requirements of the Commission's exemption authority. Under the Final Rule, the Commission retains its authority to adjudicate formal complaints and to investigate and take appropriate action to address any Shipping Act violations occurring under arrangements which have been exempted from filing requirements. Exempted agreements must be retained by the parties and be made available to the Commission's staff. Additionally, section 12 of the 1984 Act, 46 U.S.C. app. 1711, and section 27 of the 1916 Act, 46 U.S.C. app. 826, confer the Commission with subpoena powers to obtain the information it may need for investigations and adjudicatory proceedings involving exempted activity. Finally, the Commission will monitor activity exempted under the Final Rule to examine the exemptions' overall impact.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it has nonetheless reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the Final Rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

Approval for the Proposed Rule in this proceeding was granted by the Office of Management and Budget ("OMB") on June 21, 1991. Since this Final Rule does not contain the information collection requirement that was subject to OMB review under the Paperwork Reduction Act of 1980, as amended, OMB approval does not apply.

It is ordered, That the Waiver of Penalties (as noticed at 51 FR 23154, 51 FR 36755, and 52 FR 18744), is hereby discontinued on the effective date of the Final Rule herein.

List of Subjects in 46 CFR Parts 515, 560 and 572

Administrative practice and procedure, Antitrust, Contracts, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553; sections 5, 16 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1704, 1715 and 1716; and sections 15, 16, 17, 35 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 814–816, 833a and 841a, the Commission amends parts 515, 560 and 572 of title 46 of the Code of Federal Regulations as follows:

PART 515—[AMENDED]

1. The authority citation to part 515 is revised to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 816, 820, 833a, 841a, 1709, 1714, 1715 and 1716.

2. Section 515.3 is amended to redesignate the language of the existing section as paragraph (a), to remove the phrase in the last sentence thereof which reads "* * * for terminal services performed for water carriers pursuant to negotiated contracts, and" and to add new paragraphs (b) and (c) to read as follows:

§ 515.3 Persons who must file.

* * * * *

(b) Rates, charges, rules and regulations governing terminal services provided to and paid for by common carriers by water pursuant to a marine terminal services agreement as defined in 46 CFR 560.308(a) or 46 CFR 572.310(a), need not be separately filed in tariffs for the purposes of this part, on condition that such rates, charges, rules and regulations are not determined through a marine terminal conference agreement, as defined in 46 CFR 560.307(b) and 572.307(b).

(c) Rates, charges, rules and/or regulations which but for § 515.3(b) would be subject to the tariff-filing requirements of this part may not unilaterally impose exculpatory provisions of a nature prohibited by § 515.7.

PART 560—[AMENDED]

The authority citation to part 560 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a.

2. A new § 560.308 is added to read as follows:

§ 560.308 Marine terminal services agreements—exemption.

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and a common carrier by water in interstate commerce that applies to

marine terminal services as defined in 46 CFR 515.6(d) (including any marine terminal facilities, as defined in 46 CFR 515.6(b), which may be provided incidentally to such marine terminal services) that are provided to and paid for by a common carrier by water in interstate commerce. The term "marine terminal services agreement" does not include:

(1) Any agreement which conveys to the involved carrier any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or similar other arrangement for the use of marine terminal facilities or property; or

(2) Any agreement (or any modification to any agreement) previously filed with the Commission pursuant to the Shipping Act, 1916, unless said agreement, together with all previously-filed modifications, have been formally withdrawn.

(b) All marine terminal services agreements as defined in § 560.308(a) are exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, and part 560 of this chapter, on the condition that they do not include rates, charges, rules and regulations which are determined through a marine terminal conference agreement, as defined in 46 CFR 560.307(b).

PART 572—[AMENDED]

1. The authority citation to part 572 continues to read:

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

2. A new § 572.310 is added to subpart C to read as follows:

§ 572.310 Marine terminal services agreements—exemption.

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and an ocean common carrier that applies to marine terminal services as defined in 46 CFR 515.6(d) (including any marine terminal facilities, as defined in 46 CFR 515.6(b), which may be provided incidentally to such marine terminal services) that are provided to and paid for by an ocean common carrier. The term "marine terminal services agreement" does not include:

(1) any agreement which conveys to the involved carrier any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or similar other arrangement for the use of marine terminal facilities or property; or

(2) Any agreement (or any modification to any agreement) previously filed with the Commission pursuant to the Shipping Act of 1984, unless said agreement, together with all previously-filed modifications, have been formally withdrawn.

(b) All marine terminal services agreements as defined in § 572.310(a) are exempt from the filing and waiting period requirements of sections 5 and 6 of the Shipping Act of 1984 and Part 572 of this chapter on condition that:

(1) They do not include rates, charges, rules and regulations which are determined through a marine terminal conference agreement, as defined in 46 CFR 572.307(b); and

(2) No antitrust immunity is conferred pursuant to section 7 of the Shipping Act of 1984, 46 U.S.C. app. 1706, with regard to terminal services provided to a common carrier by water under a marine terminal services agreement which is not filed with the Commission pursuant to the exemption provided by § 572.310(b).

It is further ordered, That this proceeding is discontinued.

By the Commission.[18]

Joseph C. Polking,

Secretary.

Commissioner William D. Hathaway Dissenting

Section 16 of the Shipping Act of 1984 (46 U.S.C. app. 1715) gives the Commission the authority, after affording opportunity for hearing and making certain findings, to exempt any activity of persons subject to the Act from any requirement of the Act. However, the Commission is under no obligation to entertain a petition for exemption nor once entertained to grant an exemption even if the findings necessary for such an exemption could be made. Section 16 is designed to assist the Commission in the exercise of its regulatory function and does not confer any rights upon the regulated to become unregulated. Commission action under section 16 is discretionary. The operating words in the section are "The Commission * * * *may*." (emphasis added).

The accepted rule of statutory construction is that if a statute is clear on its face reference to extrinsic matter is precluded.[1] However, assuming arguendo section 16 is clear, extrinsic data relevant to the section nevertheless can and should be employed to assist us in determining how to apply the section.

The legislative history very clearly and pointedly demonstrates that section 16 should be used only in minor cases where there is no substantial opposition.[2] This is not a minor case, it covers all of the marine terminal operators in the country. Nor is the petition without substantial opposition. Sea-Land entered a well reasoned comment in opposition,[3] and Sea-Land

[18] Commissioner Hathaway's dissent is attached.

[1] *See Caminetti v. U.S.*, 242 U.S. 470, 485 (1917) and *Griffin v. Oceanic Contractors, Inc.*, 458 U.S. 564, 571 (1982).

[2] H.R. Rep. No. 2248, 89th Cong., 2d Sess. 1 (1966).

"This bill would simply allow the Commission under appropriate safeguards against abuse, *to exercise limited authority to exempt from the requirements of the Act certain operations now subject to the act, which are not of significance in the overall design of regulation contemplated by the Act.*" (emphasis added).

S. Rep. No. 1459, 89th Cong., 2d Sess. 3 (1966) (Statement of Harlee, Chairman of the FMC):

"The Commission views exemption legislation as a matter of the convenience to the Commission and the parties it regulates, rather than a matter of substance and, therefore, *would be unlikely to grant exemptions from the Shipping Act in the face of substantial opposition.*" (emphasis added).

Omnibus Maritime Bill—Part I: Hearings on H.R. 4769 Before the Subcomm. on Merchant Marine of the House Comm. on Merchant Marine and Fisheries, 96th Cong., 1st Sess. 93–94 (1979) (Statement of Daschbach, Chairman of the FMC):

"The Commission views exemption legislation as a matter of disposing of needless, unnecessary and unproductive procedural requirements rather than a matter of substance and, therefore would be unlikely to grant exemption from the acts in the face of substantial opposition."

"In the face of this history, section 35 (now section 16) has had less impact than its language would indicate. The Commission has utilized this exemption authority in areas that have been *generally noncontroversial and inconsequential in the overall context of ocean commerce regulation.* For example, exemptions have been granted to nonexclusive transshipment agreements, transportation of mail in foreign commerce, round-trip passenger excursion voyages in the domestic offshore trades, transportation in the domestic offshore trades by small boats, and transportation of certain bulk liquid cargo in the domestic offshore trades." (emphasis added).

[3] Sea-Land's comment states in part.

"With respect to the proposed filing exemption, however, Sea-Land supports the Commission's current tariff and agreement filing regulations. It is essential that marine terminal operators continue to file their tariffs and agreements with the Commission to enable the Commission to enforce the substantive standards of the Shipping Acts. The requirement to file publicly the marine terminal service arrangements which are the subject of this proposal enables those who are affected, including carriers, shippers, marine terminal operators, and the Commission to be aware of the specific nature and scope of terminal service arrangements within limited waterfront space. By granting terminal operators the option not to file tariffs and agreements for such arrangements, the Commission is unjustifiably abandoning its most effective mechanism to enforce the provisions of the Shipping Acts."

is a party for whose protection the agreement filing requirement was designed.

I believe the legislative history of section 16 clearly indicates that in exercising our discretion we should defer to the Congress in matters of any consequence.[4] The Congress certainly did not intend that three Commissioners could change the law in any significant way. I believe what the majority is doing by its decision is changing the law in a significant way.

Furthermore, section 16 requires the Commission to find that the exemption "will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in substantial reduction in competition, or be detrimental to commerce." It is not up to those who oppose the exemption to disprove these findings.[5] The burden is on the Commission to substantiate the findings in such a way that a reviewing tribunal could determine whether or not there is sufficient evidence to support them.[6]

I find no such evidence in the record or in the majority opinion with respect to the last three findings, viz. unjustly discriminatory, substantial reduction in competition or detrimental to commerce, and find the analysis purporting to support the first standard to "not substantially impair effective regulation by the Commission" not persuasive.[7]

The fact that no one has complained during the time the waiver was in effect nor said that the waiver caused no harm means little. The interested parties have not had any tariffs or agreements to go by and may well have not been motivated to find out thru other means about possible adverse practices because they were awaiting the final outcome of this proceeding.

Granting the exemption will certainly substantially impair effective regulation because it will be much easier to find any infraction of the Act if the agreements are on file than if the Commission must spot check agreements from time to time or rely upon complaints from carriers who will have to be quite resourceful to discover actions that would be a violation of the Act. Also, the filing of agreements and tariffs will certainly inhibit MTO's from violating the Act.

Obviously, I also disagree with the majority action in revoking the rule requiring filing of tariffs because this rule was designed to complement the statutory agreement filing requirement.

Finally, the Section 18 Advisory Commission has this matter under consideration. The Commission was established by Congress to review the entire Act. It is scheduled to report to Congress in April of this year. Certainly we could wait until then to see what recommendation is made.

The action I would prefer the Commission to take is as stated in my motion that was voted down at the meeting i.e. withdraw the proposed rule, continue the waiver of penalty in effect and issue a new proposed rule to assert jurisdiction over stevedores. I believe the Commission is warranted in asserting such jurisdiction based upon *Gillen's Sons Lighterage* v. *American Stevedores*, 12 FMC 325 (1969), *A.P. St. Philip, Inc.* v. *Atlantic Land & Improvement Co. etc.*, 13 FMC 166 (1969) and the definition of "marine terminal operator" in section 2 of the Shipping Act of 1984 (46 U.S.C. app. 1701).

[4] The 1984 Act prescribes a specific statutory scheme which the Commission has been charged with enforcing. [footnote deleted] Section 16 of that Act does not provide authority to repeal or substantially amend that regulatory scheme." *Motor Vehicle Manufacturers Ass'n.—Application*, 25 S.R.R. 849, 852 (1990).

[5] "The burden is on anyone seeking an exemption to show that such exemption will not have any of these effects." *Motor Vehicle Manufacturers Ass'n.*, 25 S.R.R. at 850.

[6] 5 U.S.C. section 706 (1988).

[7] See S. Rep. No. 1459, 89th Cong., 2d Sess. 2 (1966) which states that, "This legislation includes safeguards against possible abuse of the powers and privileges to be conferred upon the Federal Maritime Commission * * *" See also Cong. Rec. S., 11148 (1966) which provides,

"This proposed bill includes safeguards against possible abuse of the powers and privileges to be conferred upon the Federal Maritime Commission by imposing limitations and conditions upon the exercise of the authority to exempt. An order of exemption may be issued or reviewed only after interested persons have been accorded a reasonable opportunity to be heard and only upon *a definite Commission finding which would be based upon a thorough analysis of the nature, character and quantity of the involved transportation as to the effect it may have upon uniform Commission regulation of water carrier transportation under the Shipping Act.* This would of course be subject to appropriate judicial review."(emphasis added).

Appendix to Supplementary Information

[Docket 91–20]

Exemption of Certain Marine Terminal Arrangements; Summary of Comments [1] *and Replies* [2]

I. Comments

A. *Ports.* AAPA supports the Commission's rejection of the approach suggested in the August 31, 1988 Report of Fact Finding Officer in Fact Finding Investigation No. 17, Rates, Charges and Services Provided at Marine Terminal Facilities. That approach would have based filing requirements on ownership/control/location characteristics. However, AAPA—along with other public ports—states that the Commission's espousal of a Waiver-based approach on the basis of an absence of complaints under the Waiver may be misplaced, because parties that may have been adversely affected under the Waiver may not have had sufficient information upon which to base a complaint. AAPA requests that the Proposed Rule be amended to require exempted arrangements to be provided to the public, in addition to the Commission's staff. It also urges that the definition of "marine terminal facilities" be updated as part of this proceeding, rather than through a separate proceeding. Finally, AAPA disputes the Commission's authority to remove the 1984 Act's antitrust exemption, stating that it is the Commission's regulatory jurisdiction that results in antitrust immunity.[3]

Although CAPA supports the major elements of the Proposed Rule, it opposes proceeding to a final rule without first defining the dividing line for filing/non-filing requirements. It also urges that exempted arrangements be made available to the public upon request.

GSMTC supports the Proposed Rule, but urges that the exemption be expanded to include terminal conference agreements. It opposes the removal of antitrust immunity from exempt agreements, and suggests that exempt transactions be made available to the general public upon specific written request.

[1] Comments were filed by the American Association of Port Authorities ("AAPA"); the California Association of Port Authorities ("CAPA"); the Foreign Shipowners Association of the Pacific Coast ("FSAPC"); the Master Contracting Stevedore Association of the Pacific Coast, Inc. ("MCSAPC"); the National Association of Stevedores ("NAS"); the Gulf Seaports Marine Terminal Conference ("GSMTC"); the Northwest Marine Terminal Association ("NWMTA"); Stevedoring Services of America ("SSA"); the West Gulf Maritime Association ("WGMA"); the Massachusetts Port Authority ("MPA"); the Port Authority of New York and New Jersey ("PANYNJ"); the Port of Seattle ("Seattle"); the Port of Tacoma ("Tacoma"); the Tampa Port Authority ("Tampa"); American President Lines, Ltd. and Eagle Marine Services, Ltd. ("APL/Eagle"); Sea-Land Service, Inc. ("Sea-Land"); Guam Port Authority ("Guam"); Jacksonville Port Authority ("Jacksonville"); and the U.S. Department of Justice ("DOJ").

[2] Replies to Comments were filed by NAS, AAPA, MCSAPC, GSMTC, PANYNJ, Tampa, APL/Eagle, Guam, and DOJ.

[3] MPA and PANYNJ support the comments of AAPA, of which they are members.

NWMTA disagrees that a Waiver-based exemption would impact all classes of MTOs uniformly. It asserts that private MTOs will possess a significant advantage over public MTOs because they tend always to operate at facilities that they do not own, and therefore would be in a much better position to assert they are only providing "services". It also urges the Commission not to defer revising its definitions, stating that it would not be prudent to create a regulatory scheme until key definitions are in place.

Although Seattle is concerned that the Proposed Rule will not affect all MTOs equally, it appreciates the Commission's willingness to try different approaches in order to respond to this concern. Otherwise, it generally supports NWMTA's and AAPA's comments, both of which it is a member.

Tacoma agrees with NWMTA's position, asserting that the Proposed Rule will continue the inequities of the present regulatory regime, absent a clarification of the Commission's definitions of services and facilities. It believes that the Alternate Proposal may merit some further study, but urges the Commission not to defer revising its definitions.

Tampa believes that the Proposed Rule would cause more confusion, uncertainty and opportunity to discriminate than presently exists due to differing methods of breakbulk/containerized operations, the treatment of facilities, and the treatment of wharfage charges. Tampa urges that terminal conference, discussion and interconference agreements be excluded from the exemption. It also opposes the exemption's removal of antitrust immunity but supports a requirement that exempted transactions be made available upon request. Tampa also advises that it is opposed to the Alternative Proposal. (Tampa Comments, pp. 7–13)

Tampa requests the Commission to instead consider exempting throughput rates and charges on container cargo movements, and that the regulated portions of the throughput rates be made available to MTOs, carriers or shippers/consignees upon reasonable request. Under this approach, all breakbulk cargo movements would continue to be subject to existing FMC agreement and tariff filing requirements. Tampa believes that this approach would solve the problem which led to the Waiver and retain regulation to the extent necessary for the Commission to carry out its enforcement and regulatory functions. (Tampa Comments, p. 14)

Tampa also states that it is necessary to clarify such current uncertainties as: (a) What is specifically included in "marine terminal facilities" and "marine terminal services"; (b) whether these definitions need to be expanded to include up-to-date terms; (c) when does a MTO cease to be a MTO and become a stevedore (and vice versa) when handling containerized cargo, when handling breakbulk cargo, and whether there is a difference; and (d) where actually is the "point of rest"? (Tampa Comments, pp. 14 and 15).[4]

Guam stresses its unique geographical and economic position and states that for this reason, continued Commission regulation is essential.

B. *Private-Sector MTOs and Stevedores.* MCSAPC supports the Proposed Rule, but believes the definition of "marine terminal services" agreement should be clarified to specifically include stevedoring services provided in connection with marine terminal services. In so doing, MCSAPC requests that the phrase "and any stevedore services in connection therewith" be included under the definition of the exempted classes of agreements under proposed 46 CFR 560.308(a) and 572.310 (MCSAPC Comments, pp. 7–9). This commenter is also concerned about the Proposed Rule's record retention requirement and the safeguarding of information covered by the exemption (*Ibid.*, p. 11). MCSAPC does not, however, support the Alternative Proposal.

NAS generally supports the Proposed Rule, but is also concerned about the definitional treatment of stevedoring services (its comments here parallel MCSAPC's) and the record retention/safeguarding aspects of the proposal. NAS believes that the exemption's limitation with regard to rates, charges, rules or regulations determined through a marine terminal conference agreement should be deleted entirely. NAS also urges rejection of the minimum/maximum rate filing approach under the Alternative Proposal.

SSA supports MCSAPC's and NAS' comments, both of which it is a member. It is concerned, however, about appropriate treatment of the allegedly proprietary and sensitive data that would be submitted to the Commission under 46 CFR 515.3(b)(2),[5] or guidelines upon which such requests should be based.

WGMA's position is similar to MCSAPC's and NAS' with regard to inserting "including stevedoring" in 46 CFR 560.308 and 572.310, and recommends deletion of the exemption's limitation with regard to rates, charges, rules and regulations determined through marine terminal discussion and interconference agreements. Although it supports the Alternative Proposal to the extent it would afford greater flexibility with regard to shippers, it believes that a listing of minimum/maximum rates would be meaningless.

C. *Carriers.* FSAPC urges adoption of the Proposed Rule.

APL/Eagle support the Proposed Rule, and urge that it be expanded to apply to through-put marine terminal services agreements between carriers.

Sea-Land supports the Commission's current tariff and agreement filing regulations, stating that such filing is essential to the Commission's ability to enforce substantive Shipping Act standards. By granting MTOs the option not to file these matters, Sea-Land asserts that the Commission is unjustifiably abandoning its most effective mechanism to enforce Shipping Act requirements, thus seriously impairing effective Commission regulation pursuant to these Acts. Therefore, Sea-Land urges the Commission not to adopt the Proposed Rule, but to continue with its existing tariff and agreement filing regulations. Sea-Land does suggest, however, that the Commission should exempt off-pier MTOs from tariff and agreement filing requirements, since they are not constrained by limited waterfront space.

D. *U.S. Department of Justice.* DOJ, in supporting the Proposed Rule, urges the Commission to expand it and eliminate filing requirements and antitrust immunity for all agreements by or between MTOs, including marine terminal conference agreements. In this regard, DOJ states:

> MTO services are similar to those provided by many businesses, such as warehouses, that ordinarily operate efficiently and profitably in unregulated, competitive markets. Neither destructive competition nor conflicts with the laws of other nations, sought by some to justify extensive regulation and antitrust immunity for ocean carriers, are present in the MTO business. Consequently, there is no need for prior government review

[4] The comments of the Jacksonville Port Authority essentially track those of the Tampa Port Authority.

[5] The Proposed Rule at 46 CFR 515.3(b)(2) provided that a certified true accounting of tariff rates, charges, rules and regulations exempted by the proposal be furnished to the Commission within 30 days of a Commission written request.

of any MTO agreement. The antitrust laws and the substantive prohibitions of the Shipping Acts can adequately protect shippers and carriers from anticompetitive behavior by MTOs. (DOJ Comments, p. 4)

II. Replies

A. *Ports.* AAPA states that "substantial evidence" supporting its position can be found in the comments submitted by various private-sector MTOs. First, AAPA contends that the private-sector MTO comments indicate that their primary interest is operating in secret, not in the expense and burden of filing. AAPA asserts that the strongly-expressed concerns about the confidential commercial and financial information said to be reflected in private-sector MTO rates belies the private-sector MTOs' assertions that their goal is to eliminate administrative burden and reveals their true goal—to acquire the ability to operate in secret.

In this connection AAPA states that this proceeding and its predecessors were instituted not to protect the confidentiality of MTO agreements and tariffs, but to resolve a regulatory dilemma posed by the blurring of the distinction between regulated terminal services and non-regulated stevedoring services. Moreover, AAPA states that the inspection condition under the Proposed Rule, and the public availability of information condition requested by AAPA, are both appropriate and necessary in order to ensure that the exemption meets the criteria of section 16 of the 1984 Act. AAPA reasserts its earlier comment that public access to the exempted information must be provided if the Commission is to effectively exercise its jurisdiction because the Commission is most likely to discover potential Shipping Act violations from parties hurt by preferential or discriminatory treatment.

Second, AAPA notes NAS' suggestion that third parties can invoke Commission complaint procedures "if they want to find out what is in agreements exempted from filing." AAPA criticizes the suggestion that a party must assert a Shipping Act violation by a formal complaint merely to discover whether agreements have been entered into and the contents thereof. It contends that the Commission's complaint process should only be used when and if a party has a reason to believe it has a potential cause of action, not for "fishing" for information. AAPA asserts that such an approach would be an egregious and improper use of the administrative process since it could lead to unnecessary, time-consuming and expensive litigation creating an administrative burden on all concerned.

Third, AAPA notes that other comments support its point that the exemption proposal does not clarify the distinction between terminal and stevedoring services and that the exemption proposal does not clarify what information an MTO is required to keep for inspection. AAPA reiterates its suggestion that the Commission must address the issue of updating the definition of "marine terminal facilities" in this proceeding.

GSMTC's reply notes other commenters' opposition to the removal of antitrust immunity for exempted agreements. It states that the 1984 Act's grant of antitrust immunity is unconditional and only Congress can withdraw the immunity it has granted. (GSMTC Reply, p. 2)

GSMTC disputes NAS' suggestion that third parties seeking information about exempt material should have recourse to section 11 of the Act. It asserts that the cost and effort involved in filing a formal complaint, then pursuing the discovery process in a formal adjudicative proceeding, would discourage virtually all routine requests for information. GSMTC states that if every information request led to a Commission proceeding, the agency would be paralyzed with the volume of litigation. On these bases, GSMTC asserts that the NAS suggestion is without merit and should be summarily rejected. (GSMTC Reply, p. 3)

GSMTC also agrees with the concern expressed by many public ports that public- and private-sector MTOs are subject to different degrees of regulation by the Commission. GSMTC asserts that there have been instances where private-sector MTOs have not made necessary FMC filings, and if this is the nationwide problem it thinks it might be, it urges the Commission to immediately initiate a formal investigation of the problem. It states that the regulatory scheme does not tolerate one set of rules for public port authorities and another for private-sector MTOs.

Second, citing CAPA and Tampa comments concerning the difficulties in distinguishing "facilities" from exempted "services", GSMTC suggests that the Commission give further attention to drafting a less ambiguous rule. It is GSMTC's position that the Commission's rules do not provide clear definitional differences between the two terms.

GSMTC also opposes APL/Eagle's request to exempt marine terminal services agreements between two common carriers. It observes that such an exemption would remove the entire landside aspect of ocean carrier conferences from FMC filing requirements. While there may be reasons to support such a proposal, GSMTC states that they have not been aired in this proceeding and the issue should be addressed in a separate proceeding.

PANYNJ supports AAPA's reply comments, reiterating AAPA's concerns relative to the distinct advantage private-sector MTOs would obtain if the secrecy of agreements and tariffs could be maintained. Moreover, if the Proposed Rule is adopted, PANYNJ asserts that "fishing trips" for information will become a necessary method to determine if anticompetitive or unfair practices exist. It states that this hardly seems like a worthwhile expenditure of time and money for either the FMC or the involved parties, nor would it be in keeping with the intent of the Shipping Acts.

Tampa concurs with many of the initial comments submitted by other public-sector MTOs. With regard to the deregulatory approaches advocated by many of the other commenters, Tampa observes that (1) regulatory and enforcement authority would be very difficult to accomplish under confidentiality or secret agreement conditions; (2) there would be significant burden and expense involved in utilizing the Shipping Acts' formal complaint discovery procedures; and (3) DOJ's comparison of MTO services with warehouse services is not appropriate, because commercial warehousing does not involve the expenditures of the millions of dollars of public monies required in the infrastructure of a public port authority. Additionally, Tampa strongly disagrees with DOJ's suggestion that expanding the rule to apply to all MTO arrangements would promote competition while continued antitrust immunity could "harm competition" or be "detrimental to commerce".

Tampa therefore urges the Commission to:

(1) Immediately initiate a proposed rulemaking proceeding to clarify and redefine the definitions set forth in 46 CFR 515.6, in addition to specifically defining the services and procedures within a marine terminal operation which properly fall under the terms "services" and "facilities";

(2) Postpone further action on Docket No. 91–20 until the above rulemaking is concluded; and

(3) Expand 91–20 to include:

(a) Public availability of tariffs or agreements exempted from filing; and

(b) Availability of Shipping Act antitrust immunity, or the option to file

such tariffs and agreements and receive antitrust immunity.

(Tampa Reply, pp. 9 and 10)

Guam states that by delaying the definitional issue until the policy framework is set, the Commission opens the rulemaking process up to a "second bite out of the apple" in which parties with differing views will attempt to redraft the rule. Guam observes that definitions are a cornerstone of policy and should be recognized as such. Therefore, Guam urges institution of a rulemaking proceeding to clarify and update the 46 CFR 515.6 definitions as a prerequisite to proceeding with Docket No. 91-20. Guam also submits that wholesale deregulation would have an unpredictable impact on Guam, and therefore urges limited rather than broad changes to the MTO regulatory regime. (Guam Reply, p. 5) Moreover, Guam states that the Proposed Rule does not resolve the problem of the original issue which started the proceedings leading up to Docket No. 91-20, *i.e.*, the modern emergence of throughput MTO practices and how to deal with the non-regulated stevedoring costs included therein, and believes that Tampa's approach of separate filing requirements for containerized and breakbulk movements merits further consideration.

B. *Private-Sector MTOs and Stevedores.* NAS observes that the main issue is the difference in opinion between public ports and private-sector MTOs about the disclosure of sensitive competitive data, namely rates, to the public sector by the private sector. NAS states that the public sector complains that it operates under a competitive disadvantage because states and political subdivisions thereof control and regulate the public sector and in some cases compel the disclosure of its data. NAS asserts that it is for that reason the public sector is urging the Commission to compel the private sector to disclose proprietary data.

NAS contends that public-sector MTOs have significant competitive preferences and advantages over the private sector, and that unlike private-sector MTOs, public-sector MTOs:

—May finance their facilities and equipment with federally tax-exempt financing and at lower interest rates;
—May cover their losses with tax revenue;
—Are not required to furnish workers' compensation to injured employees in accordance with the extremely costly federal Longshore and Harbor Workers' Compensation Act;
—Are not subject to the federal Occupational Safety and Health Act;
—Are not subject to the federal National Labor Relations Act;
—Are not subject to the Employee Retirement Income Security Act; and
—Are not required to pay state and federal income taxes on their profits.

(NAS Reply, pp. 2 and 3)

NAS therefore argues that there is nothing the Commission can do under the Shipping Acts to balance the scales with regard to the competitive advantages afforded to public-sector MTOs by Congress and state legislatures; however, the Commission can continue to balance the scales with respect to regulations over which it does have legal authority. NAS states that there is nothing in existing Commission regulations nor the Proposed Rule that contributes to the unequal competition between the two sectors; however, the Commission should deny the public sector's request for a Commission-directed free look into the cards in the hands of its private-sector competitors, who are laboring under cost burdens the public sector is not.

Addressing Sea-Land's recommendation to retain the *status quo*. NAS notes that Sea-Land believes that this approach is necessary because the Proposed Rule would seriously impair the Commission's effective regulation pursuant to the Shipping Acts, and faults Sea-Land for not saying how. In this connection, NAS offers its opinion that the real reason Sea-Land urges the *status quo* and full disclosure is because Sea-Land wants to be able to eliminate significant competition by being able to see what its competitors in the MTO/stevedoring business are charging their common carrier customers, so that it can incrementally undercut those rates.

NAS also opposes withdrawal of antitrust immunity for exempt agreements. With regard to the several comments urging revision of the 46 CFR part 515 definitions in this proceeding rather than in a subsequent proceeding, NAS supports the Commission's decision to recodify all MTO regulations in a separate proceeding, which it suggests could be a consensus rulemaking proceeding.

MCSAPC states that all but two of the nineteen comments filed in this matter seemed to overlook the fact that the issues in this rulemaking proceeding are *not* whether certain agreements and tariffs should be exempt from filing—which it asserts has already been decided—but rather what conditions, if any, need to be attached to the exemption under section 16 of the 1984 Act. (MCSAPC Reply, p. 1)

MCSAPC also contrasts the intense shipper participation in hearings being held around the country by the Advisory Commission on Ocean Conferences with the fact that no representatives of this constituency have filed any comments in this proceeding. It also notes that eight other commenters joined it in fully supporting the Proposed Rule.[6]

With regard to the issue of disclosing exempt agreements and tariffs, MCSAPC makes a number of points. (MCSAPC Reply, pp. 4-7) First, it notes the public ports' argument that they will be placed at a competitive disadvantage unless this is appropriately addressed. Here, MCSAPC states that the public ports enjoy many competitive advantages in terms of tax treatment, public financing, etc., and submits, moreover, that the Commission's statutory role under the Shipping Acts is not to seek to equalize through its regulations the economic advantages/disadvantages between private- and public-sector MTOs.

Second, it asserts that the public ports' comments, while lamenting the competitive disadvantages purportedly flowing from their denial of access to private MTO agreements and tariffs, have conveniently failed to discuss the important fact that private-sector MTOs operate where they do by virtue of leases, licenses, etc., from the public ports, which set the economic terms and conditions of their tenancy and often dictate the terminal charges which can be charged. On this basis, MCSAPC concludes that it would seem that what the public ports really want to see are the stevedoring rates which neither they nor the Commission can regulate, and thus be in a position to gain business of the private MTO.

Third, MCSAPC states that it is puzzled by the fact that most public ports are not in competition with private-sector MTOs and that many public port/private-sector MTO lease agreements operate in a manner whereby the better the private-sector MTO does, the more money the public port MTO landlord receives.

Fourth, MCSAPC urges that the requirement that certain information be made available to the Commission be further qualified with a "reasonable cause" proviso.

With regard to the issue of removing antitrust immunity for exempted agreements, MCSAPC reiterates its position that it can live with whatever administrative interpretation of the 1984 Act the Commission ultimately makes on this issue. (MCSAPC Reply, pp. 7 and 8)

[6] DOJ, APL/Eagle, SSA, FSAPC, NAS, WGMA, GSMTC and CAPA.

With regard to the issue of updating the definitions of marine terminal facilities, MCSAPC states that no greater definitional clarity is needed to implement the terms used in the Proposed Rule; however, it again urges that the phrase "any stevedoring services in connection therewith" be added to clarify the scope of the exemption as including such matters. (MCSAPC Reply, pp. 9 and 10)

C. *Carriers.* APL/Eagle continues to believe that through-put marine terminal service agreements between two common carriers should be exempt from filing on the grounds that: (1) An exhaustive record failed to reveal any regulatory difficulty arising out of marine terminal services agreements between carriers; and (2) the possible lack of immunity of exempt agreements from the antitrust laws would militate against any novel or significantly anti-competitive features appearing in such agreements in the future. APL/Eagle oppose the Alternative Proposal as a wasteful regulatory burden in the form of unnecessary tariff-filing.

D. *U.S. Department of Justice.* DOJ supports the Commission's conclusion that it has the legal authority under the 1984 Act to remove antitrust immunity as a part of a filing exemption. However, DOJ opposes the option in the Proposed Rule for MTOs to voluntarily file agreements in order to obtain antitrust immunity. In this connection, DOJ contends that it would be anomalous to conclude that parties may selectively override a lawful agency decision to deregulate a class or group of activities. Here, DOJ notes the ICC's approach to TOFC/COFC deregulation, whereby the ICC prohibited parties from opting for regulation (for the purpose of obtaining antitrust immunity) because it would "negate the intended benefits of the exemption." *Improvement of TOFC/COFC Regulation,* 364 I.C.C. 391, 395 (1980). (DOJ Reply, pp. 6 and 7.) Given the FMC's finding that substantial competition exists in the marine terminal industry, if the industry is made subject to the antitrust laws, DOJ believes that it would be unlikely that MTOs would have the opportunity and means to exercise market power to the detriment of customers. DOJ therefore submits that voluntary filing would be unnecessary to protect customers and the immunity that results may lead to anticompetitive activity.

[FR Doc. 92-2693 Filed 2-5-92; 8:45 am]

BILLING CODE 6730-01-M

Proposed Rules

Federal Register
Vol. 57, No. 25
Thursday, February 6, 1992

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 Part 71

[Airspace Docket No. 91-AWA-09]

Proposed Airport Radar Service Area in the Vicinity of Newburgh, NY; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Meeting on proposed Airport Radar Service Area.

SUMMARY: The FAA is proposing to establish an Airport Radar Service Area (ARSA) at the Stewart International Airport, Newburgh, NY. An informal airspace meeting has been scheduled to provide the opportunity to gather additional facts relevant to the aeronautical effects of the proposal, and to provide interested persons an opportunity to discuss objections to the proposal. All comments received from such meetings will be considered prior to the issuance of a Notice of Proposed Rulemaking (NPRM).

DATES: The meeting will be held at 7 p.m., February 26, 1992.

Comments must be received on or before April 10, 1992.

ADDRESSES: The meeting will be held at Stewart Army Sub-Post Officers Club, Building #2602, Stewart International Airport, Newburgh, New York.

Send or deliver comments in duplicate to: George Dodelin, Manager, System Management Branch, AEA-530, Docket No. 91-AWA-09, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 553-0857.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by a representative of the FAA Eastern Region. Representatives from the FAA will present a formal briefing on problems and proposals for change that have been received from the public. All other participants will be given an opportunity to make a presentation.

(b) Any person wishing to make a presentation to the FAA Team will be asked to sign in and estimate the amount of time needed for such a presentation. This will permit the team to allocate an appropriate amount of time for each presenter. The Team may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel. The meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(c) Any person who wishes to present a position paper to the Team, pertinent to the topic of the proposed establishment of the Stewart ARSA, may do so. Persons wishing to hand out pertinent position papers to the attendees should present two copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(d) The meeting will not be formally recorded, however, informal tape recordings of presentations will be made to ensure that each respondent's comments are noted accurately. A summary of the comments at the meeting will be made available to all interested parties.

Materials relating to the proposed Stewart ARSA will be accepted at the meeting. Every reasonable effort will be made to hear every request for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the Team until March 26, 1992.

Agenda

Opening Remarks and Discussion of Meeting Procedures
Briefing on Identified Problems and Change Proposals
Public Presentations
Closing Comments

Issued in Jamaica, New York, on January 22, 1992.

Gary W. Tucker,
Manager, Air Traffic Division.

[FR Doc. 92-2722 Filed 2-5-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

United States Customs Service

19 CFR Parts 24, 113 and 142

Proposed Customs Regulations Amendments Relating to Assessment of Liquidated Damages for Failure to Deposit Estimated Duties, Taxes and Charges, or to Remit Passenger Processing Fees to Customs

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

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide principally for the assessment of liquidated damages for failure to deposit estimated duties, taxes and charges timely on imported merchandise entered for consumption. Such charges would include certain ad valorem fees, fees relating to dutiable mail and harbor maintenance fees provided by regulations. In this connection, it is also proposed to amend the Customs Regulations to allow the appropriate district director the discretion to require presentation of entry summary documentation and payment of applicable duties, taxes and charges on imported merchandise at the time of entry (and thus before the release of the merchandise from Customs custody), if the importer has not taken prompt action to settle a prior claim for liquidated damages for failure to deposit estimated duties, taxes and charges in a timely manner. The document further proposes to amend the Customs Regulations to provide for liquidated damages against international carriers who collect passenger processing fees as required by law, but who fail to remit those fees to Customs in a timely manner.

DATES: Comments must be received on or before April 6, 1992.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, (202-566-8317).

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

SUPPLEMENTARY INFORMATION:

Background

The entry for Customs purposes of merchandise imported and entered for consumption must be supported by entry and entry summary documentation. Briefly stated, entry documentation, as detailed in § 142.3, Customs Regulations (19 CFR 142.3), is that which must be filed with Customs to secure the release of imported merchandise from Customs custody (19 CFR 141.0a(a)); entry summary documentation is that which must be filed in order to enable Customs to assess duties, and collect statistics with respect to the merchandise, and to determine whether other requirements of law or regulation are met (19 CFR 141.0a(b)).

The filing of entry and entry summary documents, and the deposit of estimated duties, taxes and charges, constitute separate obligations under the importer's bond. Specifically, under § 113.62(b), Customs Regulations (19 CFR 113.62(b)), the principal on the bond (importer) agrees to timely file such documentation (*i.e.*, entry and entry summary documentation) as is necessary to enable Customs to release the imported merchandise from Customs custody, properly assess duties, collect accurate statistics and ascertain whether applicable requirements of law and regulation are met. As provided in § 113.62(a)(1)(i), Customs Regulations (19 CFR 113.62(a)(1)(i)), the principal and the surety on the bond are responsible, jointly and severally, for the timely deposit of any duties, taxes and charges imposed or estimated to be due at the time the merchandise is released or withdrawn from Customs custody.

Under the provisions of § 113.62(k), Customs Regulations (19 CFR 113.62(k)), if the bond principal defaults with regard to the timely presentation of entry and entry summary documentation as set forth in § 113.62(b), the obligors on the bond, both principal and surety, jointly and severally, agree to pay liquidated damages in the amount of the value of the merchandise involved in the default.

In contrast with the foregoing, however, any default regarding the timely payment of estimated duties, taxes and charges required by § 113.62(a)(1)(i) does not result in the assessment of liquidated damages, there being no provision to cover this in the regulations. Accordingly, when a default arises from either a failure to deposit estimated duties, taxes and charges at the time of presentation of the entry summary, or from a return of a duty check by a financial institution because of insufficient funds or any other negotiability problem, or from an untimely electronic transfer of funds under the Automated Clearinghouse (ACH), Customs remedy involves assertion of a claim for duties, taxes and charges against the principal and surety for breach of the bond condition stated in § 113.62(a)(1)(i), Customs Regulations (19 CFR 113.62(a)(1)(i)).

To deal with this problem, it is proposed to amend § 113.62 to provide specifically for the assessment of liquidated damages when a bond principal defaults in respect to the timely payment of estimated duties, taxes and charges. In this connection, "duties, taxes and charges" would include any applicable ad valorem fees described in § 24.23, Customs Regulations (19 CFR 24.23), fees for dutiable mail described in § 24.22(f), Customs Regulations (19 CFR 24.22(f)), or harbor maintenance fees described in § 24.24(e)(3) (i) and (ii), Customs Regulations (19 CFR 24.24(e)(3) (i) and (ii)).

The proposed amendment of § 113.62 would also make clear in those situations where neither entry summary documentation is provided, nor estimated duties, taxes and charges deposited in a timely manner (a non-file), that liquidated damages would be assessed in an amount equal to the value of the merchandise consistent with the bond provision applicable for failure to timely present the entry summary documentation. In other words, multiple claims would not be assessed when both the documentation and the estimated duties are not submitted.

Furthermore, under § 142.13, Customs Regulations (19 CFR 142.13), the district director is empowered to require that entry summary documentation be filed and that estimated duties, taxes and charges be deposited at the time of entry, if the importer has repeatedly failed to file entry summary documentation timely, has not taken prompt action to settle claims for liquidated damages for failure to file timely, or has repeatedly delivered entry summary documentation which is incomplete or which contains erroneous information. Additionally, § 142.25, Customs Regulations (19 CFR 142.25), permits the district director to discontinue immediate delivery privileges for these same reasons.

Consequently, concomitant with the proposed amendment of § 113.62, it is further proposed to amend §§ 142.13 and 142.25 to permit the district director to require presentation of entry summary documentation as well as payment of estimated duties, taxes and charges at the time of entry (and thus before the release of the merchandise), or to suspend immediate delivery privileges, if the importer has not taken prompt action to settle a prior claim for liquidated damages issued for failing to deposit estimated duties, taxes and charges in a timely manner in violation of § 113.62(a)(1)(i).

Inasmuch as the proposed amendment of § 113.62 would provide for specific liquidated damages against importers who fail to pay the harbor maintenance fee, it is also proposed to amend § 24.24(h)(1), Customs Regulations (19 CFR 24.24(h)(1)), to state specifically that importers who fail to pay the harbor maintenance fee thereunder shall incur liquidated damages consistent with the provisions of § 113.62. In concert with this, § 24.24(h) (2) and (3), Customs Regulations (19 CFR 24.24(h) (2) and (3)), are also proposed to be amended to indicate, respectively, that importers against whom liquidated damage claims have been assessed may petition for relief in accordance with the procedures set forth in Part 172, Customs Regulations (19 CFR Part 172), and that mitigation shall be afforded from such claims consistent with guidelines published for cancellation of claims for the untimely payment of estimated duties, taxes and charges.

Failure to Pay Passenger Processing Fees to Customs

It is further proposed to amend § 113.64, Customs Regulations (19 CFR 113.64), concerning International Carrier Bonds, in order to allow assessment of liquidated damages against carriers who fail to pay passenger processing fees over to Customs no later than 31 days after the close of the calendar quarter in which they were collected pursuant to § 24.22(g), Customs Regulations (19 CFR 24.22(g)). The proposed amendment would provide for liquidated damages under such circumstances equal to two times the collected passenger processing fees which are not remitted to Customs as prescribed by regulation.

This proposed amendment will not impose any new requirements on international carriers, nor will it make the carriers responsible for the payment of uncollected fees to Customs. It is merely an amendment to provide for the payment of fees to Customs which have been paid to the carriers by passengers

but which have not been timely remitted to Customs.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are 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)), during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is hereby certified that the proposed amendments set forth in this document, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in § 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking is in §§ 24.24, 113.62 and 113.64. In the event liquidated damages were to be assessed by Customs for failure to timely deposit estimated duties, taxes or charges due on imported merchandise entered for consumption, it would be necessary for the party to file a petition for relief with Customs in order to mitigate or cancel the claim for damages. The likely respondents would be businesses.

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the U.S. Customs Service at the address previously specified.

Estimated total annual reporting and/or recordkeeping burden:

Estimated average annual burden per respondent and/or recordkeeper:

Estimated number of respondents and/or recordkeepers:

Estimated annual frequency of responses:

Part 178, Customs Regulations (19 CFR part 178), which lists the information collections contained in the regulations and control number assigned by OMB would be amended accordingly if the proposal is adopted.

Drafting Information

The principal author of this document was Russell Berger, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

Part 24

Accounting, Claims, Customs duties and inspection, Imports, Taxes, Wages.

Part 113

Customs bonds.

Part 142

Customs duties and inspection, Imports.

Proposed Amendment

It is proposed to amend parts 24, 113 and 142, Customs Regulations (19 CFR parts 24, 113 and 142), as set forth below.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for part 24 would be amended to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58a-58c, 66, 1202 (General Note 8, Harmonized Tariff schedule of the United States (HTSUS)), 1624, 31 U.S.C. 9701; 26 U.S.C. 4461–4462.

§ 24.1 also issued under 19 U.S.C. 197, 198, 1648;
§ 24.4 also issued under 19 U.S.C. 1623, 26 U.S.C. 5007, 5054, 5061, 7805;
§ 24.11 also issued under 19 U.S.C. 1485(d);
§ 24.12 also issued under 19 U.S.C. 1524, 46 U.S.C. 31302;
§ 24.14 also issued under 19 U.S.C. 1;
§ 24.16 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1623, 46 U.S.C. 2111, 2112;
§ 24.17 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1456, 1524, 1557, 1562, 46 U.S.C. 2110, 2111, 2112;
§ 24.32 also issued under 5 U.S.C. 5582, 5583;
§ 24.36 also issued under 26 U.S.C. 6423.

2. It is proposed to amend § 24.24 by revising the headings of paragraphs (h) and (h)(1), and by adding a sentence to the ends of paragraph (h)(1), paragraph (h)(2), and paragraph (h)(3), to read as follows:

§ 24.24 Harbor maintenance fee.

* * * * *

(h) *Penalties/liquidated damages for failure to pay harbor maintenance fee and file summary sheet.* (1) *Amount of penalty or damages.* * * * An importer who fails to pay the harbor maintenance fee shall incur liquidated damages consistent with the provisions of § 113.62 of this chapter.

(2) *Application for relief.* * * * Any application to cancel liquidated damages incurred shall be made in accordance with part 172 of this chapter.

(3) *Mitigation.* * * * Any liquidated damages assessed under this provision shall be mitigated in a manner consistent with guidelines published by the authority of the Commissioner of Customs for cancellation of claims for untimely payment of estimated duties, taxes and charges.

* * * * *

PART 113—CUSTOMS BONDS

1. The authority citation for part 113 would continue to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624. Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

2. It is proposed to amend § 113.62 by adding a new paragraph (k)(4) thereto, to read as follows:

§ 113.62 Basic custodial bond conditions.

* * * * *

(k) *Consequence of default.* * * *

(4) If the principal defaults on agreements in condition (a)(1)(i) only, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the unpaid duties, taxes and charges estimated to be due or $1000, whichever is greater. A default on condition (a)(1)(i) shall be presumed if any monetary instrument authorized for the payment of estimated duties, taxes and charges by § 24.1(a) of this chapter is returned unpaid by a financial institution, or if a payment authorized under Automated Clearinghouse (see § 24.25 of this chapter) is not transmitted electronically to Customs in a timely manner. If the principal defaults on agreements in both conditions (a)(1) (i) and (b), the measure of liquidated damages assessed shall be as provided in paragraph (k)(1) for a default of the agreements in condition (b). For purposes of this paragraph, the phrase "unpaid duties, taxes and charges" shall include any appropriate ad valorem fees described in § 24.23 of

this chapter, fees relating to dutiable mail described in § 24.22(f) of this chapter, and harbor maintenance fees described in § 24.24(e)(3) (i) and (ii) of this chapter.

3. It is proposed to amend § 113.64 by adding a new sentence to the end of paragraph (a) to read as follows:

§ 113.64 International carrier bond conditions.

(a) *Agreement to pay penalties, duties, taxes, and other charges.* * * * If the principal (carrier) fails to pay passenger processing fees to Customs no later than 31 days after the close of the calendar quarter in which they were collected pursuant to § 24.22(g) of this chapter, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the passenger processing fees which have been collected but not timely paid to Customs as prescribed by regulation.

* * * * *

PART 142—ENTRY PROCESS

1. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. It is proposed to amend § 142.13 by revising the first sentence of paragraph (a)(2) to read as follows:

§ 142.13 When entry summary must be filed at time of entry.

(a) *Authority of district director.* * * *

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to file entry summary documentation timely, or a claim for liquidated damages issued under § 113.62(k)(4) of this chapter for failure to deposit estimated duties, taxes and charges timely in violation of § 113.62(a)(1)(i). * * *

* * * * *

3. It is proposed to amend § 142.25 by revising the first sentence of paragraph (a)(2) to read as follows:

§ 142.25 Discontinuance of immediate delivery privileges.

(a) *Authority of district director.* * * *

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.27 for failure to file the applicable Customs documentation set forth in § 142.22(b) timely, or a claim for liquidated damages issued under § 113.62(k)(4) of this chapter for failure to deposit estimated duties, taxes and charges timely in violation of § 113.62(a)(1)(i). * * *

* * * * *

Carol Hallet,

Commissioner of Customs.

Approved: November 22, 1991.

John P. Simpson,

Acting Assistant Secretary of the Treasury (Enforcement).

[FR Doc. 92-2607 Filed 2-5-92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Golden Gate National Recreation Area Designated Bicycle Routes

AGENCY: National Park Service, Interior.

ACTION: Proposed rule; notice of correction of comment dates.

SUMMARY: On January 29, 1992, proposed rules regarding designated bicycle routes within Golden Gate National Recreation Area were published in the **Federal Register** (57 FR 3392). This notice corrects the date through which public comments on the proposed rule will be accepted. In the "DATES" paragraph (57 FR 3392) of the preamble, the date should read "MARCH 30, 1992" instead of "March 30, 1991". In the "PUBLIC PARTICIPATION" paragraph (57 FR 3393) of the preamble, comments may be submitted "within 60 days" of the publication of the proposed rule in the **Federal Register** rather than "within 30 days". There are no other changes either to the preamble or to the text of the proposed regulations.

FOR FURTHER INFORMATION CONTACT: Gil Soper, Chief Ranger, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123, Telephone: 415-556-4283.

Dated: January 3, 1992.

Terry Tesar,

Federal Register Liaison Officer.

[FR Doc. 92-2859 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-70-M

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36 CFR Part 62

RIN 1024-AB96

National Natural Landmarks Program

AGENCY: National Park Service, Interior.

ACTION: Extension of comment period on proposed rule.

SUMMARY: In the **Federal Register** of November 21, 1991 (56 FR 58790), the National Park Service proposed to revise regulations for the National Natural Landmarks Program. The proposed rulemaking will revise the current regulations (36 CFR part 62) for the National Natural Landmarks Program. Proposed changes include strengthening and clarifying procedures for owner notification, adding a requirement for voluntary owner consent for natural landmark designation, and providing for review of natural landmark nominations by the National Park System Advisory Board.

As originally announced, public comments on the proposed rule were to be accepted until February 19, 1992. The National Park Service has received a request from the National Park System Advisory Board to extend the comment period until after the next scheduled Advisory Board meeting on February 26-27, 1992. This notice therefore extends the comment period until March 2, 1992.

DATES: Written comments or suggestions will be accepted until March 2, 1992.

ADDRESSES: Comments should be directed to: Director, National Park Service, P.O. Box 37127, Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT: Anne Frondorf, Wildlife and Vegetation Division, National Park Service, Washington, DC 20013-7127. Telephone: (202) 343-8129.

Dated: February 3, 1992.

F. Eugene Hester,

Associate Director, Natural Resources.

[FR Doc. 92-2935 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-70-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MM Docket No. 85-36; FCC 91-433]

Review of Technical and Operational Requirements in the Broadcast Auxiliary Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Committee withdraws its proposal to allow portable broadcast auxiliary TV pickup stations to use certain vacant channels in the UHF-TV spectrum on a secondary, non-interference basis for transmission of program material over limited distances.

As set forth in the Further Notice of Proposed Rule Making in the above-captioned proceeding (Further Notice, 52 FR 21710, June 9, 1987), the proposal was intended to provide relief from interference encountered by receivers operating in close proximity to transmitters in the same microwave bands. The comments filed in response to the Further Notice indicate minimal support for the Commission's proposal, and fail to establish that adoption of the proposal would be in the public interest.

DATES: This proposed rulemaking proceeding is terminated February 6, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Hank VanDeursen, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Order (Proceeding Terminated)

In the matter of Review of Technical and Operational Requirements: Part 74-E Aural Broadcast STL and ICR Stations; and Part 74-F TV Low Power Auxiliary Stations.

Adopted: December 31, 1991.

Released: January 15, 1992.

By the Commission.

1. The Further Notice of Proposed Rule Making [1] in this proceeding proposed to allow portable broadcast auxiliary TV pickup stations to use certain vacant channels in the UHF-TV spectrum on a secondary, non-interference basis for transmission of program material over limited distances. In particular, the Further Notice proposal would have permitted field crews to use vacant UHF-TV channels for Electronic News Gathering transmissions from a camera to a microwave vehicle for relay to the studio. Currently, such wireless camera operations are limited to microwave bands above 2 GHz. The proposal to permit wireless camera use on vacant UHF-TV channels in lieu of operation in the referenced microwave bands was expected to provide relief from interference encountered by receivers operating in close proximity to transmitters in the same microwave bands. Eligibility for the proposed uses was to be limited to TV broadcast licenses, TV networks and cable television entities [2] in order to limit such use to broadcast or broadcast related entities consistent with the purpose of this Broadcast Auxiliary Service.

2. Several months prior to the Further Notice, we greatly expanded the number of channels available to Low Power Auxiliary Stations (LPAS).[3] See First Report and Order in MM Docket No. 86-12, 2 FCC Rcd 345 (1987). However, during that time we did not authorize any equipment suitable for use on the newly available channels. In the Further Notice, we noted that there was no apparent method of coordinating LPAS operations and wireless camera operations, and expressed concern about potential interference if these fundamentally different devices were to be operated on the same channels. The Further Notice accordingly imposed a freeze on continued licensing of LPAS operation between 530 MHz and 806 MHz in the UHF-TV band pending the resolution of the issues involving wireless camera use of the same band that were raised in this proceeding.[4]

3. The comments filed in response to the Further Notice expressed either no support or only limited support for the use of wireless cameras operating in the UHF-TV spectrum. In particular, broadcast interests expressed satisfaction with current wireless cameras that operate in the microwave bands above 2 GHz and questioned the demand for more limited bandwidth equipment that would operate in UHF-TV channels. Although police departments and motion picture companies filed comments in favor of the proposal stated in the Further Notice, their support was conditioned on their being permitted to operate wireless cameras in the UHF-TV band. Because of the transient and intermittent nature of wireless camera operations, close cooperation among users is essential. However, the lack of a natural coordination facility and scarce enforcement resources leads us to conclude that granting access to the UHF television channels to police departments and motion picture companies should not be permitted. Further, the record does not establish that adoption of the proposed wireless camera use would be in the public interest. Accordingly, this proceeding will be terminated without prejudice.

4. In view of the preceding decision, we will also terminate the freeze on the authorization of wireless microphones on UHF-TV spectrum above Channel 23 (*i.e.*, above 530 MHz). Pursuant to § 74.803(b) of our Rules, wireless microphones are authorized and operated strictly on a secondary basis to other primary (principally broadcast) services. In larger metropolitan areas, VHF-TV channels (which also may be used by wireless microphones) are used intensively for broadcasting and lower UHF channels often are shared with private land mobile services.[5] Available channels for wireless microphone use are further restricted by the co-channel spacing requirements of § 74.802(b) of the Rules, particularly in larger urbanized areas.[6] This has resulted in reports of congestion which would be alleviated by making the upper UHF-TV channels available again for wireless microphone operation.[7] Thus, the public will benefit by our terminating the freeze.

5. Accordingly, pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, *it is ordered*, That this proceeding *is terminated* without prejudice, THAT the freeze on wireless microphone and other Low Power Auxiliary Service operation above 530 MHz *is terminated*, and THAT the Vega January 14, 1991 Petition for Further Review, Analysis and Consideration *is dismissed*.

6. For further information contact Hank VanDeursen at (202) 632-9660.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-2682 Filed 2-5-92; 8:45 am]

BILLING CODE 6712-01-M

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[1] See Further Notice of Proposed Rule Making, 2 FCC Rcd 3129 (1987).

[2] *Ibid.* paragraph 12.

[3] The expression "Low Power Auxiliary Stations" (LPAS) usually denotes low power "wireless microphones" which are used to convey audio signals over short distances without using wires or cables. However, other permissible (but much less frequently used) devices include low power stations that are used for cue and control communications or to synchronize TV camera signals.

[4] See Further Notice, paragraph 15.

[5] See First Report and Order in Docket 18261, 23 FCC 2d 325 (1970).

[6] For example, LPAS licensees authorized in the frequency band 174 to 216 MHz in Zone 1, which includes most of the northeast United States, may not operate within 97 kilometers (60 miles) of a co-channel TV broadcast station.

[7] On January 14, 1991, a Petition for Further Review, Analysis and Consideration was filed by Vega—a Mark IV Company that manufactures wireless microphones. Vega claims that it is nearly impossible for wireless microphones to operate in major markets on most of the UHF channels that are not covered by the freeze. In view of our decision to terminate the freeze, the Vega petition will be dismissed as moot.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89-9; Notice 5]

RIN 2127-AA12

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking; extension of comment period

SUMMARY: This notice grants a request to extend the comment period on an agency proposal to amend Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to require conspicuity systems for large trailers. An extension of the comment period is desirable in view of a delay in the completion of a research report referenced in the notice of proposed rulemaking. The extension will permit the public to review and comment upon the report. The comment closing date is changed from February 3, 1992 to March 31, 1992.

DATES: Comments on docket 80-9, Notice 4 must be received on or before March 31, 1992.

ADDRESSES: Comments should refer to Docket No. 80-9, Notice 4 and be submitted to: Docket Section, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 9:30 to 4 pm. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Boyd, Office of Rulemaking, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-336-6364).

SUPPLEMENTARY INFORMATION: On December 4, 1991, NHTSA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to require conspicuity systems for large trailers. (56 FR 63474) Under the proposal, trailer manufacturers would be given a choice of installing either retroreflective sheeting or reflex reflectors. The notice referred to a research program conducted by the University of Michigan Transportation Research Institute (UMTRI) for NHTSA. Specifically, the agency referenced the UMTRI study in discussing the performance and application of conspicuity materials. NHTSA stated that the research "might yield additional insight into the effectiveness of various conspicuity treatment patterns."

The agency anticipated that the UMTRI report would be completed and available for public review while the comment period was open; however, the research has been delayed. NHTSA now anticipates that the report will be completed and available for public review in February.

Reflexite, a manufacturer of retroflective materials, petitioned the agency, requesting a 30 day extension of the comment period. Reflexite stated that it needed to examine the UMTRI report before it submitted its comments.

After reviewing the situation, NHTSA agrees with the petitioner that additional time is desirable to permit the public to review the UMTRI report, which represents some of the technical basis for the proposal. The extension will enable the public to obtain and study the report. Accordingly, the agency believes that there is good cause for the extension and that the extension is consistent with the public interest. Based on the above considerations, the agency has decided to extend the comment period until March 31, 1992.

Issued on: January 31, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-2850 Filed 2-3-92; 1:12 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1141

[EX PARTE NO. 507]

Revision of Procedures to Calculate Interest Rates

AGENCY: Interstate Commerce Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Commission is considering revising its regulations at 49 CFR 1141.1, pertaining to the computation of interest when reparations are awarded. Specifically, consideration is being given to: (1) Requiring the use of compound, as opposed to simple, interest in all cases; (2) allowing the use of interest rates other than the 90 day Treasury Bill rate in cases other than investigations of new railroad rates (where the 90 day Treasury Bill rate is required by statute); and (3) requiring the use of floating interest rates when an award of reparations spans an extended period of time. Comments are solicited from interested parties.

DATES: Comments must be submitted by March 9, 1992.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 507 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 927-6187 (TDD for hearing impaired: (202) 927-5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Interstate Commerce Commission, room 2215, Washington, DC 20423. Telephone: (202) 927-7428. (Assistance for the hearing impaired is available through TDD services (202) 927-5721.)

This action will not significantly affect either the quality of the human environment or energy conservation; nor will it have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1141

Administrative practice and procedure.

Authority: 5 U.S.C. 553, 49 U.S.C. 10321.

Decided: January 30, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-2912 Filed 2-5-92; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 57, No. 25
Thursday, February 6, 1992

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

Forms Under Review by Office of Management and Budget

January 31, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

New Collection

• Food Safety and Inspection Service
Nutrition Labeling Survey of Meat and Poultry Firms.
One time survey.
Businesses or other for-profit; Small businesses or organization; 700 responses; 1820 hours.
Roy Purdie, Jr. (202) 720–5372.

• Forest Service
Baseline and Trend Information on National Forest Communication.
Use and Users.
One time survey.
Individuals or households; 2600 responses; 650 hours.
Stephan R. Sherick (406) 329–3096.

• Food and Nutrition Service
Evaluation of the Expanded EBT Demonstration in Maryland—Phase II.
One time survey.
Individuals or households; Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 1,903 responses; 1,469 hours.
Margaret Andrews (703) 305–2115.

Larry K. Roberson,
Deputy Departmental Clearance Officer.
[FR Doc. 92–2848 Filed 2–5–92; 8:45 am]
BILLING CODE 3410–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting of the North Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will be held from 10 a.m. until 1 p.m. on Thursday, February 27, 1992, at the Sheraton Inn, 6th and Broadway, Bismarck, North Dakota. The purpose of this meeting is to discuss current issues, review the draft report of the Committee's project on Native American Children in North Dakota Special Education Programs and plan future activities.

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

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

Dated at Washington, DC, January 28, 1992.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 92–2886 Filed 2–5–92; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Firm name	Address	Date petition accepted	Product
Boekeloo, Inc., DBA G&R Machine Company	1501 Pa Avenue W., Box 932, Warren, PA 16365.	12/16/91	Precision metal parts manufactured from bar stock.
Myers & Company Architectural Metals, Inc	0176 Emma Road, Box 1025, Basalt, CO 81621.	12/17/91	Metal furniture, chandeliers, electric lamps, railings, gates and metal frame seats.
Elliott Bay Industries, Inc.	470 South Kenyon Street, Seattle, WA 98108	12/18/91	Veneer clippers and parts.
Carlson Dolls Company	210 West First Street, Maple Lake, MN 55358	12/19/91	Historical, native American and ethnic dolls.
Jule, Inc	25 Science Park, New Haven, CT 06511	12/20/91	Precast gels.
Cherokee Nation Industries, Inc.	Highway 51 West, Stilwell, OK 74960	12/23/91	Electronic harnesses/cable and electronic black box (control devices).
Helmel Engineering Products, Inc	6520 Lockport Road, Niagara Falls, NY 14305	12/23/91	Coordinate measuring machines and its software.
Trimen Industries, Inc.	Rd #3, P.O. Box 309, New Oxford, PA 17350	12/27/91	Gray iron furnace.
U.S. Axle, Inc.	275 Shoemaker Road, Box 297 Pottstown, PA 19464.	12/27/91	Shafts and axles, produced by machining steels and alloys.

Firm name	Address	Date petition accepted	Product
Colt's Manufacturing Company, Inc.	P.O. Box 1848, Hartford, CT 06144	12/30/91	Miscellaneous—guns, rifles, handguns, and accessories.
Univeral Machine Company, Inc	1512 Osprey, Street 107 DeSoto, TX 75115-2411.	1/3/92	High speed coin counter/verifiers and automatic wrappers.
Manhasset Machine Company, Inc	409 Bayview Avenue, Amityville, NY 11701	1/3/92	Flexographic label printing presses and ancillary machines.
Northwood Industries	3323 Central Avenue, Union City, CA 94587	1/6/92	Upholstered chairs and wooden tables.
Sterling China Company	12th and Commerce Street, East Liverpool, OH 43920.	1/6/92	Tableware and kitchenware made of China for institutions.
IPF International, Inc.	11-13 Maryland Avenue, Paterson, NJ 07539	1/6/92	Decorative mirrors, chairs and upholstered furniture.
Guardian Electric Manufacturing Company	1425 Lake Avenue, Woodstock IL 60098	1/6/92	Solenoids, relays, switches, steppers, and control grips.
The Hollaender Manufacturing Company, Inc	10285 Wayne Avenue, Box 156399, Cincinnati, OH 45215-6399.	1/7/92	Aluminum tube or pipe fittings.
Bakery Equipment & Service Co., Inc	1623-27 N. San Marcos, San Antonio, TX 78201.	1/7/92	Bakery equipment.
Victoria Vogue, Inc	90 Southland Drive, Bethlehem, PA 18017	1/7/92	Powder puffs.
Magnum Boats	18204 Botheli Highway, Bothell, WA 98012	1/10/92	Metal products—aluminum boats.
N.W.T. Corporation	4345 North Sullinger Avenue, Tucson, AZ 85705.	1/13/92	Metal products—precision cutting tools.
College House, Inc. (The)	601 Cantiague Road, Westbury, NY 11590	1/14/92	Apparel—tee shirts, pants, shorts, jackets, and novelty items.
Zendex Corporation	6780 Sierra Court, Suite A, Dublin, CA 94568	1/14/92	Electronics—microcomputer processors, control boards and system enclosures.
Automatic Doorman, Inc.	110 Pennsylvania Avenue, Paterson, NY 07503.	1/15/92	Electronics—electric garage door openers.
Judco Manufacturing, Inc.	P.O. Box 487, Harbor City, CA 90710	1/15/92	Electronics—electrical wiring switches and harnesses.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the trade Adjustment Assistance Division, room 4015A, Economic development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: January 27, 1992.

Steven R. Brennen,

Acting Deputy Assistant Secretary for Program Operations.

[FR Doc. 92-2927 Field 2-5-92; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

[A-401-004]

Carton Closing Staples and Stapling Machines From Sweden; Determination Not To Revoke Antidumping Duty Order

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

ACTION: Determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on carton closing staples and stapling machines from Sweden.

EFFECTIVE DATE: February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Barbara Victor or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-0090/3814.

SUPPLEMENTARY INFORMATION:

Background

On December 13, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 65042) its intent to revoke the antidumping duty order on carton closing staples and stapling machines from Sweden (48 FR 38250, December 20, 1983). The Department may revoke an order if the Secretary concludes that the order is no longer of interest to interested parties. We did not receive a request for administrative review of the order for the last four consecutive annual anniversary months and, therefore, published a notice of intent to revoke the order pursuant to 19 CFR 353.25(d)(4).

On January 3, 1992, International Staple and Machine Company, the petitioner, objected to our intent to revoke the order. Normally, the Department would consider this objection to be untimely since it was received after the anniversary month. However, since the Department did not publish its intent to revoke until December 13, 1991, we are accepting this objection as timely. Therefore, we no longer intend to revoke the order.

Dated: January 30, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-2928 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-05-M

[C-333-001]

Cotton Sheeting and Sateen From Peru; Intent To Revoke Countervailing Duty Order

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

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on cotton sheeting and sateen from Peru. Interested parties who object to this revocation must submit their comments in writing not later than February 29, 1992.

EFFECTIVE DATE: February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Allan Christian or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1983, the Department of Commerce ("the Department") published a countervailing duty order on cotton sheeting and sateen from Peru (48 FR 4501). The Department has not received a request to conduct an administrative review of the countervailing duty order on cotton sheeting and sateen from Peru for more than four consecutive annual anniversary months. This is the fifth anniversary.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than February 29, 1992, interested parties, as defined in § 355.2(i) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review or object to the Department's intent to revoke by February 29, 1992, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d).

Dated: January 30, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 92-2929 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-333-002]

Cotton Yarn From Peru; Intent To Revoke Countervailing Duty Order

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

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on cotton yarn from Peru. Interested parties who object to this revocation must submit their comments in writing not later than February 29, 1992.

EFFECTIVE DATE: February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Allan Christian or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1983, the Department of Commerce ("the Department") published a countervailing duty order on cotton yarn from Peru (48 FR 4508). The Department has not received a request to conduct an administrative review of the countervailing duty order on cotton yarn from Peru for more than four consecutive annual anniversary months. This is the fifth anniversary.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than February 29, 1992, interested parties, as defined in § 355.2(i) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review or object to the Department's intent to revoke by February 29, 1992, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d).

Dated: January 30, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 92-2930 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-DS-M

Notice of Scope Rulings

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of scope rulings.

SUMMARY: The International Trade Administration (ITA) hereby publishes a list of scope rulings completed between October 1, 1991, and December 31, 1991. In conjunction with this list, the ITA is also publishing a list of pending requests for scope clarifications. The ITA intends to publish future lists within thirty days of the end of each quarter.

EFFECTIVE DATE: February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-4851.

Background

Sections 353.29(d)(8) and 355.29(d)(8) of the Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months. The lists are to include the case name, reference number, and brief description of the ruling.

This notice lists scope rulings completed between October 1, 1991, and December 31, 1991, and pending scope clarification requests. The ITA intends to publish in April 1992 a notice of scope rulings completed between January 1, 1992, and March 31, 1992.

The following lists provide the country, case reference number, requester(s), and a brief description of

either the ruling or product subject to the request.

Scope Rulings Completed Between October 1, 1991, and December 31, 1991

Country: Federal Republic of Germany

A-428-602: Brass Sheet and Strip:

The International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Salaried Machine and Furniture Workers, Industrial Union Department, AFL-CIO, and the United Steelworkers of America—imports of 667-series brass, manufactured by Wieland-Werke AG, are not circumventing the order—12/11/91.

A-428-801: Antifriction Bearings:

FAG Kugelfischer Georg Schaefer KGaA—certain "needle roller" bearings, specifically, engine main shaft pilot bearing model 26-1950A and engine crank shaft bearings models 26-2440, 26-2440(A), 26-2441, 26-2441(A), 26-2176, 26-2176(A), 26-2177, and 26-2177(A) are cylindrical roller bearings that are within the scope of the order—12/23/91.

Country: USSR

A-461-008: Titanium Sponge:

Hi-Temp Specialty Metals, Inc.—compacted (or compressed) titanium scrap fines are outside the scope of the order—11/1/91.

Country: Italy

A-475-801: Antifriction Bearings:

Meter S.p.A.—"chain sheaves" (forklift truck mast components) are antifriction bearings within the scope of the order—10/25/91.

Country: Singapore

A-559-801: Antifriction Bearings:

SKF—loose ball rollers used in textile drafting machinery (top rollers) are antifriction bearings within the scope of the order—10-25-91.

C-559-802: Antifriction Bearings:

SKF—losoe ball rollers used in textile drafting machinery (top rollers) are antifriction bearings within the scope of the order—10-25-91.

Country: People's Republic of China

A-570-504: Petroleum Wax Candles:

San Francisco Candle Company—Moonlite and Candylite candles are within the scope of the order—11/4/91.

Country: Japan

A-588-015: Television Receiving Sets, Monochrome and Color:

Casio Computer Co., Ltd., Casio, Inc., Citizen Watch Co., Ltd., Hitachi, Ltd., Hitachi Sales Corporation of America, Hitachi Sales Corporation of Hawaii, Inc., Matsushita Electric Industrial Co., Ltd., Matsushita Electric Corporation of America, NEC Corporation, NEC Home Electronics (U.S.A.), Inc., Seiko Epson Corporation, Toshiba Corporation, and Toshiba America, Inc.—certain hand-held liquid crystal display televisions (Casio Computer Co., Ltd. models TV-400T, TV-500, TV-1400, TV-3100, TV-8500; Citizen Watch Co., Ltd. models 06TA, 08TA, TB20, TA80, TC50, TC53, DD-T126, DD-P226, TC52; Matsushita Electric Industrial Co., Inc. models CT-301E/302B, CT-311E/312B; and Seiko Epson Corporation models LVD-602, LVD-702, LVD-802) and all other LCD TVs under 6" in screen size imported into the United States are later-developed products within the scope of the order—12/16/91.

A-588-087: Portable Electric Typewriters:

Smith Corona Corporation—Brother Industries, Ltd. and Brother Industries (USA), Inc., are not circumventing the order by importing parts and components from Japan, and assembling them into finished portable electric typewriters for sale in the U.S., is circumventing the order—preliminary 9/6/91; final 11/8/91.

A-588-806: Electrolytic Manganese Dioxide:

Sumitomo—High-grade chemical manganese dioxide (CMD-U) is a later-developed product within the scope of the order—12/20/91.

Requests Withdrawn

Country: Federal Republic of Germany

A-428-801: Antifriction Bearings:

GMN—bearings for use in machine tool spindles—10/31/91.

Pending Scope Clarification Requests as of December 31, 1991

Country: Canada

A-122-601: Brass Sheet and Strip:

Hussey Copper Ltd., The Miller Company, Olin Corp. (Brass Group), Outokumpu American Brass, Revere Copper Products, the International Association of Machinists & Aerospace Workers, the International Union, Allied Industrial Workers of America (AFL-CIO), the Mechanics Educational Society of America (Local 56), and the United Steelworkers of America (AFL-CIO/CLC)—anti-circumvention inquiry to determine whether a producer of brass in Canada and a U.S. importer of brass are circumventing the antidumping order by importing Canadian brass plate, a product not included within the antidumping duty order, into the United States where it is rolled down slightly into brass sheet and strip.

Country: Federal Republic of Germany

A-428-801: Antifriction Bearings:

Sachs Automotive Products—clutch releasers.

SKF—certain "textile machinery components".

Allergan Medical Optics—stainless steel balls for non-bearing use.

Country: Italy

A-475-059 Pressure Sensitive Tape:

INCAS Corp.—highlighting note tape.

A-475-703: Granular Polytetrafluroethylene (PTFE) Resin:

E.I. DuPont de Nemours & Company, Inc.—anti-circumvention inquiry to determine whether imports of granular PTFE raw polymer are circumventing the order.

A-475-801: Antifriction Bearings:

Wolf D. Barth Co., Inc., and SKF Component System Co.—7/32" chrome steel balls.

Federal Mogul—roller turn rollers.

IBC Bearing Co.—finished, semiground balls.

Country: People's Republic of China

A-570-003: Cotton Shop Towels:

Win-Tex Products, Inc.—towels assembled in Honduras.

A-570-504: Petroleum Wax Candles:

Candles by Finesse—the "Van Gogh" and "Monet".

Country: Korea

A-580-008: Color Television Receivers:

Granada Hospital Group—Spectrum C-10 Interactive Receiver.

Goldstar Co., Ltd., Goldstar Electronics International, Inc. and Goldstar of America, Inc.—printed circuit boards combined after importation with U.S.-made color picture tubes.

A-580-803: Certain Small Business Telephone Systems and Subassemblies Thereof:

Cord Electronics, Inc.—Digital Display Set telephone set (DDS).

Country: Hong Kong

A-582-802 Sweaters Wholly or in Chief Weith of Man-Made Fiber:

Joyce Sportswear—models S/3603, S/3633, and S/3402.

Country: Taiwan

A-583-508: Porcelain-on-Steel Cookware:

Mr. Stove Ltd.—stove top grills.

A-583-605: Butt-weld Pipe fittings:

Spring, Inc.—the "Sprink-let".

Country: Japan

A-588-007: Certain High Capacity Pagers:

Motorola—components and subassemblies.

A-588-014: Tuners:

Nichimen America Inc.—Sanshin compact direct broadcast satellite (DBS) tuners

A-588-015: Television Receiving Sets, Monochrome and Color:

Sharp—LCB TV/VCR model VC-V542U.

IDC Marketing Corp.—National model TC2160MR.

IDC Marketing Corp.—National model TC-290TR.

Inter-Ocean Industries—Panasonic model TC-1471NPSR.

A-588-016: Ferrite Cores:

U.S. Customs—ferrite bead inductors.

A-588-087: Portable Electric Typewriters:

Nakajima, Canon, and Smith Corona—portable electric typewriters with computer interface.

Silver Seiko—"office typewriters" models EZ-40 and EZ-43.

A-588-405: Cellular Mobile Telephones and Subassemblies:

NEC—base band IC.

A-588-504: Erasable Programmable Read Only Memories:

Intel Corporation, Advanced Micro Devices, Inc., and National Semiconductor Corporation—flash memory EPROM.

A-588-807: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured:

Japan Freight Consolidators (Calif.), Inc.—V-belt model 5L118.

QMS, Inc.—belts for use in laser printers.

A-588-809: Certain Small Business Telephone Systems and Subassemblies Thereof:

Kyushu Matsushita Electric Co., Ltd.—KME 336, certain subassemblies, and accessories.

A-588-810: Mechanical Transfer Presses:

Aida Engineering—spare and replacement parts.

Customs—destack sheet feeder.

A-588-814: Polyethylene Terephthalate Film, Sheet, and Strip:

Diafoil America Inc.—Diafoil AC-250.

A-588-815: Gray Portland Cement and Cement Clinker:

Onoda Cement Co., Ltd.—Classes G and H of oil well cement.

A-588-817: High Information Content Flat Panel Displays:

Sharp—Sharp model QA-1000 computer projection panel.

Rockwell—FPDs for avionics products.

A-588-818: Personnel Word Processors:

Fujitsu—Fujitsu model OASYS-30AX-W Japanese language word processor.

A-100-001: Antifriction Bearings—General Issues:

Customs—ceramic bearings.

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

Dated: January 31, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-2931 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-DS-M

[Project I.D. No. 06-10-92008-01]

Minority Business Development Agency

Business Development Center Applications: New Mexico

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive application under its Indian Business Development Center (IBDC) program to operate an IBDC 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 as $197,400 in Federal funds. An amount of $9,400 has been allocated for the audit fee and should be listed in the contractual line item under the Federal amount. The period of performance will be from August 1, 1992 to July 31, 1993. The IBDC will operate in the New Mexico geographic service area.

The funding instrument for the IBDC 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 IBDC program is designed to provide business development services to the American Indian business community for the establishment and operation of viable American Indian businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of American Indian individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding American Indian business.

Applications will be evaluated initially by regional staff on the following criteria: the experience and capabilities for the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of American Indian 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 methodologies) 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 purpose of the IBDC 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.

IBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget period. IBDCs 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 IBDC 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 IBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and 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 account 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 IBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of IBDC 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 (Public Law 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 Agreement" 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 of loan.

CLOSING DATE: The closing date for applications is March 9, 1992. Applications must be postmarked on or before March 9, 1992.

NOTE: Please mail completed application to the following address: Chicago Regional Office, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER INFORMATION CONTRACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara (214) 767-8001.

A pre-bid conference will be held on February 18, 1992 in the U.S. Federal Building, room 1049, on 517 Gold Avenue, Albuquerque, New Mexico at 10 p.m.

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.

11.801 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: January 28, 1992.

Melda Cabrera,

Regional Director,

[FR Doc. 92-2857 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-21-M

[Project I.D. No. 08-10-92010-01]

Business Development Center Applications: North Dakota

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 Indian Business Development Center (IBDC) program to operate an IBDC 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 as $197,400 in Federal funds. An amount of $9,400 has been allocated for the audit fee and should be listed in the contractual line item under the Federal amount. The period of performance will be from August 1, 1992 to July 31, 1993. The IBDC will operate in the North Dakota geographic service area.

The funding instrument for the IBDC 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 IBDC program is designed to provide business development services to the American Indian business community for the establishment and operation of viable American Indian businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of American Indian individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding American Indian 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 American Indian 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 methodologies) 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 purpose of the IBDC 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.

IBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. IBDCs 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 IBDC 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 IBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and 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 account 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 IBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of IBDC 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 (Public Law 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 Agreement" 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 March 9, 1992. Applications must be postmarked on or before March 9, 1992.

NOTE: Please mail completed application to the following address: Chicago Regional Office, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER INFORMATION CONTACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

A pre-bid conference will be held on February 12, 1992 in the U.S. Federal Building, Post Office, room B14, on 220 Rosser Street, Bismarck, North Dakota at 1:30 p.m.

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.

11.801 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: January 28, 1992.

Melda Cabrera,

Regional Director, Dallas, Regional Office.

[FR Doc. 92-2855 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-21-M

[Project I.D. No. 06-10-92009-01]

Business Development Center Applications; Oklahoma

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 Indian Business Development Center (IBDC) program to operate an IBDC 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 as $197,400 in Federal funds. An amount of $9,400 has been allocated for the audit fee and should be listed in the contractual line item under the Federal amount. The period of performance will be from August 1, 1992 to July 31, 1993. The IBDC will operate in the Oklahoma geographic service area.

The funding instrument for the IBDC 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 IBDC program is designed to provide business development services to the American Indian business community for the establishment and operation of viable American Indian businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of American Indian individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding American Indian 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 American Indian 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 methodologies) 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 purpose of the IBDC 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.

IBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. IBDCs 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 IBDC 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 IBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and 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 account 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 IBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of IBDC 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 (Public Law 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 Agreement" 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 application is March 9, 1992. Applications must be postmarked on or before March 9, 1992.

Note: Please mail completed application to the following address: Chicago Regional Office, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER INFORMATION CONTACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

A pre-bid conference will be held on February 18, 1992 in the James Stewart Building, room 100, on NE. 4th Street, Oklahoma City, Oklahoma at 10 p.m.

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.

Dated: January 28, 1992.

11.801 Minority Business Development (Catalog of Federal Domestic Assistance)

Melda Cabrera,

Regional Director, Dallas.

[FR Doc. 92-2858 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-21-M

[Project I.D. No. 06-10-92006-01]

Business Development Center Applications: Austin, Texas

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 as $165,000 in Federal funds, and a minimum of $29,118 in non-Federal (cost sharing) contributions from August 1, 1992 to July 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 Austin, Texas MSA geographic service area.

The funding instrument for the MBDC will be 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 identify and coordinate public and private sector 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 methodologies) 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 purpose 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 period. 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 and 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 account 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 (Public Law 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 Agreement" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with Section 319 of Public Law 101-121, with 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 March 5, 1992. Applications must be postmarked on or before March 5, 1992.

Note: Please mail completed application to the following address: Chicago Regional Office, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER INFORMATION CONTACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

A pre-bid conference will be held on February 12, 1992 in the U.S. Federal Building, room 752, on 300 East 8th Street, Austin, Texas at 9 a.m.

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.

Dated: January 28, 1992.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Melda Cabrera,

Regional Director, Dallas, Regional Office.

[FR Doc. 92-2856 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

[Docket No. 920137-2037]

Recommendations of the Marine Mammal Commission

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice and request for public comment.

SUMMARY: The Under Secretary of Commerce for Oceans and Atmosphere in his capacity as the United States Commissioner to the International Whaling Commission, and head of the U.S. Delegation to the Commission meeting in June 1992, publishes a series of recommendations received from the Marine Mammal Commission regarding issues of importance that are likely to be addressed by the International Whaling Commission. Public comment on these recommendations is requested.

DATES: Comments are requested until April 6, 1992.

ADDRESSES: Written comments should be sent to the Office of International Affairs, National Marine Fishery Service, 1335 East West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Becky Rootes, (301) 713-2276.

SUPPLEMENTARY INFORMATION:

The International Whaling Commission

International regulation of whaling began with the Convention signed at Geneva on September 24, 1931, and subsequent agreements in 1937 and 1938. After World War II, it became evident that those earlier agreements were badly out-of-date. The International Convention for the Regulation of Whales (Convention) was signed by fifteen nations, including the United States, on December 2, 1946. The Convention established the International Whaling Commission (IWC) which continues as the international body for the conservation of whales. Membership in the Commission has expanded from the original fifteen whaling nations to thirty-eight nations including whaling nations and interested non-whaling nations. Since the 1970's, U.S. policy has been to pursue negotiations within the Commission for a strengthened international conservation regime for whales and other cetaceans.

The Marine Mammal Commission

The Marine Mammal Commission was established by title II of the Marine Mammal Protection Act of 1972 (Pub. L. 92-522, title II; 16 U.S.C. 1401 et seq.). In addition to duties regarding scientific and policy review of domestic actions affecting marine mammals, the commission is charged with the review of activities of the United States pursuant to the Convention and with recommending policies regarding international arrangements for the protection and conservation of marine mammals (16 U.S.C. 1402 (a)(1), (5)). By law, recommendations of the Commission are public documents. While federal officials to whom Commission recommendations are addressed need not necessarily adopt its recommendations, they must respond to the Commission within 120 days.

The U.S. Commissioner to the IWC has received a letter and issue paper from the Marine Mammal Commission which is reproduced as Addendum A to this Notice. The Marine Mammal Commission points out that the IWC is at a critical stage in its history, discusses several issues and makes several recommendations.

Initial Response of the United States Commissioner

The United States Commissioner to the IWC has responded to the Marine Mammal Commission indicating the actions he intends in response to the Commission's recommendations (Addendum B).

Issues Likely to Arise at 1992 Meeting

In preparing for the annual meeting the IWC in Scotland in June 1992, the U.S. Delegation will work closely with the Marine Mammal Commission and other concerned agencies and will consider carefully comments submitted in response to this notice. Views on the following issues addressed by the Marine Mammal Commission which are likely to arise at the IWC meeting are particularly desired.

The Ecosystem Approach to Whale Conservation

The Marine Mammal Commission states that the current conservation program of the IWC is based upon an outdated single species concept which does not reflect a modern ecosystem oriented approach to the conservation of whales. The Marine Mammal Commission recommends revision of the Convention and the IWC's Conservation Program to incorporate modern principles of living resource management that will assure that stocks of all whales are maintained within optimum levels, and will minimize the risk of irreversible or long-term adverse effects on whale species or the ecosystems of which they are a part, will ensure the maximum possible range of management options for present and future generations. The Marine Mammal Commission also recommends that the new conservation program recognize both the consumptive and the nonconsumptive values of whales.

Domestically and internationally, the United States has supported development of an ecosystem based approach to the conservation of other living marine resources. The ecosystem approach has the potential to provide a more fundamental understanding of living marine populations, and how they function and interact in their environment. Development of an ecosystem approach to whale conservation would require extensive research to characterize the biological, chemical and physical features and interrelationships of the ecosystem and would involve comprehensive, multifaceted cooperation among the members of the IWC.

Greater Protection for Small Cetaceans

The Marine Mammal Commission points out that small cetaceans (dolphins, porpoises, and other small toothed whales) include some of the world's most endangered populations. Despite the depleted status of many of these small whales, they currently receive less international protection than the great whales. Some member governments of the IWC have expressed similar concern about the status of certain stocks of small whales.

The Marine Mammal Commission urges that the United States propose revisions to the Convention and to the IWC's Schedule of Regulations that would formally establish the IWC's competence to regulate catches of all cetaceans. Whaling for species not listed in the Schedule is not now regulated by Schedule provisions. (However, the United States position continues to be that the Convention applies to whaling for all species of whales, including those small whales not currently listed in the Schedule so that an amendment to the Schedule, but not to the Convention itself, is all that would be required to regulate catches of small whales.)

Resumption of Commercial Whaling

The United States strongly advocated adoption of the worldwide moratorium on the commercial harvesting of whales which came into force on February 3, 1983. All commercial whaling ceased in 1988. Section 10(e) of the Schedule which established the moratorium, contemplates that the moratorium provision would be kept under review and that it would be reconsidered by the Commission when its effects on whale stocks were scientifically assessed.

The Marine Mammal Commission notes that many Americans disapprove of whaling on moral and ethical grounds regardless of the status of whale stocks. The Marine Mammal Commission states that these views must be recognized in developing national policies; it also states that unyielding opposition to commercial whaling even under a carefully controlled program consistent with sound principles of living resource conservation may weaken the leadership position of the United States within the IWC and on other international environmental matters.

Addendum A contains a more complete discussion of all the issues addressed by the Commission.

Accordingly, comments are solicited on the issues contained in the letter of the Marine Mammal Commission and the accompanying issue paper.

John A. Knauss,

Under Secretary for Oceans and Atmosphere, U.S. Department of Commerce, and U.S. Commissioner to International Whaling Commission.

Addendum A

December 5, 1991.

The Honorable John A. Knauss, Ph.D., *U.S. Commissioner to the International Whaling Commission, National Oceanic and Atmospheric Administration, Washington, DC 20230.*

Dear Dr. Knauss: The International Whaling Commission is at a critical stage in its history. It soon must consider certain nations' intentions to resume commercial whaling for Southern Hemisphere and possibly North Atlantic minke shales under the International Whaling Commission's Revised Management Procedure. It must also consider the monitoring, verification, research, and enforcement programs that will be required to implement that procedure to ensure that whale stocks will be maintained within optimum ranges. As a member country of the International Whaling Commission, the United States now faces, or soon will face, the question of whether it should either continue to oppose all commercial whaling or agree to its resumption under certain conditions. Among the points to consider is the stated intention of some whaling nations to leave the International Whaling Commission and create an organization more sympathetic to whaling interests should commercial whaling not be allowed to resume at some level. Such an action, signaling the end of the International Whaling Commission as an international regulatory body, would probably not be in the best interests of whale conservation.

The Marine Mammal Commission believes that conserving whales, not only the species themselves but also individual stocks, would best be accomplished, at least in the foreseeable future, by maintaining the Commission as a viable regulatory organization. It seems, therefore, appropriate to prevent its dissolution if possible. The Marine Mammal Commission also believes, however, that the International Convention for the Regulation of Whaling is outdated and in need of revision; it does not reflect the principles of marine living resource conservation developed since the Convention's drafting in 1946. If the Convention is revised and its management procedures brought into fundamental conformance with modern conservation practices and if member nations commit to full compliance with those practices, there is reason to believe that the International Whaling Commission's conservation program will become more effective than it was in the past when one stock after another became severely depleted.

The Revised Management Procedure adopted at the Commission's 1991 meeting was a sincere and significant step toward improving the regulation of commercial whaling. However, the procedure lacks a specific implementation program and does not consider, or make provision for, the possible effects of other activities (*e.g.*, offshore oil and gas development, commercial fishing, coastal development, *etc.*) and such events as mass die-offs or cetaceans on either the whales or their habitat. Furthermore, it does not consider the possible effects of removing whales on other components of the ecosystems of which the whales

are a part. In this regard the Revised Management Procedure, like the Convention, reflects outdated, single-species, maximum sustainable yield concepts. Given this, it seem incumbent upon the United States and other like-minded nations to initiate and sustain efforts to update the International Whaling Commission's conservation program to reflect modern principles of wildlife conservation.

Recent Comprehensive Assessments of whale stocks have been undertaken by the International Whaling Commission's Scientific Committee. It is the Scientific Committee's view that these assessments have shown that some stocks of whales (*e.g.*, Southern Hemisphere and possibly some North Atlantic minke whale stocks) are presently above their maximum net productivity levels and could safely sustain some level of regulated takes. Member nations have divided views on this. Some feel that if a population would not be reduced below optimal levels by taking or exploitation, catches should be allowed to levels that would keep the population within the range of optimal levels. Others feel that if a population would not be endangered by taking or exploitation, catches should be allowed up to the maximum level that can be sustained. Others believe that non-consumptive values of whales are as great as or greater than their consumptive values and that whales are more valuable as living functioning components of the marine ecosystem than as food or trade commodities. Still others believe that a properly managed whaling program would optimize both consumptive and non-consumptive values.

In this regard, the Commission notes that, while the "science" may indicate that commercial whaling could be resumed, science does not weigh, one way or the other, on the question of whether it should be resumed. Notwithstanding the fact that the United States has based its opposition to commercial whaling on scientific grounds, other considerations should and must be taken into account when reviewing this position. The legislative history of the Marine Mammal Protection Act, for example, indicates that its prohibition on the taking of marine mammals was also based on moral and ethical grounds independent of economic, biological, or other scientific concerns. It is clear that many Americans are opposed to whaling on moral and ethical grounds, and this, in addition to science, must be recognized in developing national policies.

The Marine Mammal Commission believes that, before the next meeting of the International Whaling Commission, the United States must re-examine its policies with respect to commercial whaling. A careful re-examination should logically lead to policies which incorporate modern principles of living resource conservation, recognize non-consumptive as well as consumptive values of whales, and take into account the moral and ethical arguments being put forward. Non-consumptive values of cetaceans, including their role in maintaining habitat and ecosystem integrity, and consideration of moral and ethical arguments against whaling are appropriate bases for the United States to continue to oppose commercial whaling.

Continued United States opposition to commercial whaling, even under a carefully controlled program consistent with sound principles of living resource conservation, may hold unanticipated consequences for the United States. Unyielding opposition may weaken the leadership position of the United States within the International Whaling Commission, and it may weaken this country's effectiveness on other international environmental matters such as management of direct and indirect take of small cetaceans, control of high seas driftnets, and the negotiation of ecologically sound agreements to govern international fisheries. The United States must consider how its domestic policies with respect to the International Whaling Commission would benefit or impede the development of new fisheries for other resources and the restructuring of existing fisheries to generate the information needed to effectively conserve the resources and the ecosystems of which they are a part. In this context, the International Whaling Commission believes that the United States must address the commercial whaling question in terms of potential conservation gains for whales, including small cetaceans, and for the conservation and sustained utilization of marine living resources in general.

In recognition of the complexity of the issues facing the International Whaling Commission and their implications for U.S. policy, the Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has developed the attached paper providing an overview of the major issues and offering recommendations on ways in which the collective objectives of the United States might be achieved. In particular the paper presents background information and recommendations on:

1. U.S. Policy on Commercial Whaling
   - 1.1 Relevant Provisions of the Marine Mammal Protection Act
   - 1.2 Current U.S. Policy
   - 1.3 Considerations Regarding the Resumption of Commercial Whaling
2. Revision of the Moratorium on Commercial Whaling
   - 2.1 The 1982 Moratorium Decision
   - 2.2 The Comprehensive Assessment of Whale Stocks
   - 2.3 Revising the Management Procedures
3. Issues of Concern:
   - 3.1 Aboriginal/Subsistence Whaling for Bowhead Whales
   - 3.2 Authority for Small Cetacean Issues
   - 3.3 Special Permits for Scientific Research
4. Revising the 1946 Whaling Convention
5. The future of the International Whaling Commission.

The issue paper concludes that, while the Marine Mammal Commission believes that the International Whaling Commission should be maintained as the international authority for the conservation of whales, the Marine Mammal Commission also finds the 1946 Convention to be outdated and in need of revision. In this regard, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with appropriate Federal agencies and the environmental and scientific communities, seek to renegotiate the International Whaling Convention so that it: (a) Incorporates sound principles of living resource conservation that take into account the possible effects of all human activities on whales and on the ecosystems of which whales are a part; (b) includes recognition of the non-consumptive values of whales; (c) recognizes the authority of the International Whaling Commission to include all cetacean species; and (d) requires adherence to all aspects of the International Whaling Commission's conservation program, including resolutions regarding lethal takes of whales for research purposes.

In view of the possible resumption of commercial whaling, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with the Department of State, the Marine Mammal Commission, and other appropriate agencies: (a) Adopt the position that non-consumptive values of whales may be of equal, if not greater importance than their consumptive values, and that science alone should

not dictate the resumption of commercial whaling; (b) except as specified in (d) below, oppose the resumption of commercial whaling on the basis of previous failures in the conservation of stocks and the need to consider non-consumptive values; (c) recognize that resumption of commercial whaling under a conservative management program (*e.g.*, conservative quotas, effective enforcement and inspection, comprehensive data collection on every whale harvested, and effective population monitoring) would not jeopardize the affected whale stocks or the ecosystems of which they are a part; and (d) take the position that, if a three-quarter majority of the International Whaling Commission members agree to resume commercial whaling under a carefully controlled regime, the United States would not view such a resumption as "diminishing the effectiveness" of the International Whaling Commission's conservation program and would not apply or seek to have other nations apply sanctions against the countries that resume whaling.

In addition, in preparation for the 1992 meeting of the International Whaling Commission, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with the Marine Mammal Commission and other appropriate agencies, develop terms of reference for the monitoring, verification, reporting, enforcement, and other operational programs that will be necessary to implement the Revised Management Procedure adopted by the International Whaling Commission, taking into account the goal of integrating sound conservation practices into the International Whaling Commission's conservation program. These terms of reference should serve as the basis for U.S. policy regarding the implementation of the Revised Management Procedure.

The United States needs to develop a consensus with other member nations to initiate and sustain efforts to update the Whaling Convention to reflect modern principles of wildlife conservation. The Commission therefore believes that it would be appropriate for the U.S. Commissioner to the International Whaling Commission to undertake discussions along these lines with the Commissioners of other member nations to foster broad support for these concepts well before the 1992 International Whaling Commission meeting.

Finally, and perhaps most importantly, involved Federal agencies under your leadership should work with Congress to determine under what conditions the United States will or will not oppose a decision by the International Whaling Commission to allow a resumption of commercial whaling. The Marine Mammal Commission believes that a productive step in this regard would be for the National Oceanic and Atmospheric Administration to chair a review of the issues raised in this letter and the attached issue paper by an interagency working group. The reviewers, who should complete their review by the end of February 1992, should receive technical guidance from members of the U.S. scientific delegation to the International Whaling Commission.

For many years, representatives of the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals have participated on U.S. delegations to the International Whaling Commission and in the meetings of its Scientific Committee. All are committed to using this collective experience to help you in preparing for the 1992 International Whaling Commission meeting and in addressing issues beyond that time.

Sincerely,

John R. Twiss, Jr.,

Executive Director.

cc: The Honorable E.U. Curtis Bohlen

Issues Facing the International Whaling Commission and the United States Regarding the Resumption of Commercial Whaling and the Future Conservation of Cetaceans

1. United States Policy on Commercial Whaling

1.1 Relevant Provisions of the Marine Mammal Protection Act

The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) provided the first U.S. legislative mandate for an ecosystem-oriented, pro-active approach to conservation of marine living resources. The general intent of the Marine Mammal Protection Act is to prevent the depletion of marine mammal species and populations as a result of human activities, and to restore and maintain marine mammal populations at their optimum sustainable levels [1], keeping in mind the carrying capacity of the habitat and the health and stability of the ecosystem of which they form a constituent element. In addition, it recognizes nonconsumptive (*e.g.*, aesthetic and ecological) as well as consumptive values of marine mammals.

A central feature of the Marine Mammal Protection Act is its indefinite moratorium, with certain exceptions, on the taking [2] of marine mammals by any person subject to the jurisdiction of the United States. Alaskan Indians, Aleuts, and Eskimos are generally exempt from the moratorium and may take marine mammals including whales if such taking is for subsistence purposes or is done for purposes of creating or selling authentic native handicrafts, and is not done in a wasteful manner. For example, Alaskan Natives take endangered bowhead whales each year in accordance with quotas sanctioned by the International Whaling Commission.

Although the Marine Mammal Protection Act provides for issuing waivers of the moratorium to allow taking of marine mammals, no waivers have been issued for the commercial catches of whales by U.S. citizens or persons in waters under U.S. jurisdiction. In 1977, the Marine Mammal Protection Act was amended to explicitly prevent issuing a waiver for this purpose by adding subsection (f) to section 102 (16 U.S.C. 1372 (f)) such that:

> "It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States."

While this provision is based in part on scientific considerations, the legislative history indicates that its inclusion in the Act was also based on moral and ethical grounds independent of economic, international, biological, or scientific concerns.

In addition, section 108(a)(4) of the Marine Mammal Protection Act directs that the purposes and policies of the Act shall be the official policies of the United States in negotiating and renegotiating international agreements concerning marine mammals and that efforts shall be undertaken to bring existing international agreements into conformance with those policies (16 U.S.C. 1378(a)(4)). It states that:

> "The Secretary [of Commerce or Interior, as appropriate], through the Secretary of State, shall . . . initiate the amendment of any existing international treaty for the protection and conservation of any species of

[1] Optimum sustainable population has been defined as a range of population sizes from the size determined by the habitat carrying capacity (K) to the size where the net annual increment in numbers or biomass is maximized (the maximum net productivity level, MNPL).

[2] The term "take" means "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal."

marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of this Act."

With regard to the conservation of whales, the purposes and policies of the Marine Mammal Protection Act include the prohibition of commercial whaling by anyone within United States waters and imply that the United States should oppose commercial whaling in other areas as well. Further, section 108(a)(4) of the Act clearly indicates that the United States should seek to amend existing agreements, including the International Convention for the Regulation of Whaling, to bring them into conformance with ecologically sound principles of wildlife management which acknowledge, among other things, non-consumptive as well as consumptive resource values and the maintenance of the health and stability of the marine ecosystem of which whales are a part.

1.2 Current U.S. Policy

In 1990, an Interagency Task Force reviewed U.S. policy options concerning whales and whaling activities and made recommendations to the U.S. Commissioner on key issues concerning the International Whaling Commission (55 FR 17799–17800). The Task Force concluded that the United States should: (1) Continue its support for the current International Whaling Commission moratorium on commercial whaling; (2) oppose the establishment of a new category for "small-type coastal whaling"; and (3) participate in discussions during annual International Whaling Commission meetings on critical issues, including those pertaining to management procedures, on an *ad hoc* basis, and reserve the right for further domestic consultations prior to committing the U.S. Government to any course of action.

With regard to resumption of commercial whaling, the Task Force recommended that any resumption of commercial whaling be predicated upon:

1. Adoption of acceptable management procedures;
2. Presence of adequate assessments of whale stocks;
3. Development of acceptable data reporting systems, monitoring regimes, and enforcement regimes; and
4. Assurances that member countries would participate in such data reporting systems, monitoring regimes, and enforcement regimes.

1.3 Considerations Regarding the Resumption of Commercial Whaling

The Marine Mammal Commission concurs that any consideration of resumption of commercial whaling must be predicated, at a minimum, on the above four criteria. As noted below, it is our understanding: That the Revised Management Procedure adopted by the International Whaling Commission addresses some, but not all, of the Task Force's criteria; that it does not address ecosystem effects; that it does not address certain other factors like the direct and indirect effects that activities such as oil and gas exploration and exploitation, mineral exploration and exploitation, commercial fishing, and mass die-offs may have upon whale stocks and their habitat; and that it does not specify the research necessary to ensure that stocks of whales are maintained at optimal levels. At a minimum, the International Whaling Commission's conservation program should address all four of the criteria developed by the Task Force. It should also address the other factors just noted and the fact that whaling itself has the potential to cause either long-term or irreversible effects on the marine ecosystem. In addition, the conservation program should provide a mechanism (*i.e.*, research and monitoring) to verify, with reasonable certainty, that exploited populations do, in fact, remain within their optimum sustainable range, and there is no directed taking whatsoever of any depleted stocks.

While it might be argued that commercial whaling under a comprehensive management regime would not threaten the stability of exploited stocks and that such a program would allow optimization of both consumptive and non-consumptive uses, it does not mean that the United States could not or should not oppose the resumption of commercial whaling on other than "scientific" grounds. Sound principles of resource management dictate that taking be suspended, or strictly limited, if available information and existing enforcement and population monitoring programs are insufficient to reasonably conclude that whaling will not deplete the species or stock in question or adversely alter the ecosystem of which the whales are a part. In other words, even if the science indicates that whales could be taken without threatening the status of a stock, there is no obligation to allow whaling.

With regard to highly migratory species such as whales, customary international law respects the rights of all nations to utilize a resource provided that their actions do not threaten the resource or otherwise infringe upon other nations' utilization. Since many United States citizens remain opposed to commercial whaling on moral and ethical grounds and place equal or greater value on the non-consumptive uses of whales rather than on their consumptive uses, non-consumptive values, as well as population status determinations, should be accorded consideration. There are doubtless instances where the value of the living standing stock, in terms of ecosystem stability, diversity and productivity, exceeds the consumptive value of catching whales. It is also a fact that there are situations in which the commercial returns from non-consumptive activities such as whale-watching could exceed, particularly over the long-term, the finite, one-time economic gain to be realized from taking a whale.

Therefore, the Marine Mammal Commission recommends that the United States Government: (a) Adopt the position that non-consumptive values of whales may be of equal or greater value than their consumptive values, and that science alone is not sufficient to dictate that commercial whaling should be resumed; (b) oppose the resumption of commercial whaling on that basis except as specified in (d) below; (c) recognize that resumption of commercial whaling under a conservative management program (*e.g.*, conservative quotas, effective enforcement and inspection, comprehensive data collection on every whale harvested, *and* effective research and population monitoring) would not jeopardize the affected whale stocks or the ecosystems of which they are a part; and (d) take the position that, if a three-quarter majority of the International Whaling Commission members agree to resume commercial whaling under a carefully controlled regime, it would not view such a resumption as "diminishing the effectiveness" of the International Whaling Commission's conservation program and would not apply or seek to have other nations apply sanctions against the countries that resume whaling.

2. Revision of the Moratorium on Commercial Whaling

2.1 The 1982 Moratorium Decision

Despite the International Whaling Commission's goal of managing the whaling industry, the systematic exploitation of whale stocks to commercial extinction continued unabated following 1946. The International Whaling Commission's unsatisfactory record in resource management was put before the United Nations' Conference on the Human Environment in Stockholm, Sweden in

1972. There, a resolution was adopted that the International Whaling Commission establish a ten-year moratorium on all commercial whaling. During the decade following the Stockholm meeting, seeking such a moratorium was official U.S. policy. This policy was based on the understanding that: Available data on whale populations were inadequate for making accurate determinations concerning their status and trends; existing management practices posed unacceptable risks to whale populations; and actions by some member countries were undermining the International Whaling Commission's conservation efforts. There was no mention of non-consumptive values of whales (*e.g.*, aesthetic or ecological values) or of ethical or moral considerations contributing to the formulation of this policy.

The International Whaling Commission finally adopted a moratorium at its 1982 meeting. The moratorium, which took effect in the 1985/1986 pelagic and 1986 coastal whaling seasons, provided that catch limits for commercial whaling would be set at zero. The moratorium provision also called upon the International Whaling Commission, by 1990 at the latest, to undertake a "comprehensive assessment" of the effects of this decision on whale stocks and, based on that assessment, to consider establishing other catch limits. The moratorium retained the option that commercial whaling could resume once a comprehensive assessment of the effects of the International Whaling Commission moratorium on whale stocks had been undertaken and a "revised" management program had been developed and adopted.

As described below, the Marine Mammal Commission believes that consideration can only be given to modifying the moratorium if the International Whaling Commission's conservation program is revised to, among other things, incorporate modern principles of living resource conservation.

2.2 The Comprehensive Assessment of Whale Stocks

In April 1986, the International Whaling Commission's Scientific Committee agreed that the Comprehensive Assessment would include an in-depth evaluation of the status of all whale stocks in light of management objectives and procedures. The Committee agreed that it would include an examination of current stock size, recent population trends, carrying capacity, and productivity. The following three major areas of work were identified as components of the Comprehensive Assessment:

1. review current knowledge concerning methodology, stock identity, and data availability;

2. as needed, plan and conduct the collection of new data required for the Comprehensive Assessment; and,

3. examine possible alternative management regimes (Revised Management Procedures).

As part of the Comprehensive Assessment, the Scientific Committee sponsored workshops on management related issues (*i.e.*, genetics, behavior, mortality in fishing nets and gear, and the development of Revised Management Procedures). In addition, to date it has undertaken comprehensive assessments of: Eastern North Pacific gray whales (April 1990); Southern Hemisphere minke and North Atlantic minke whales (June 1990); North Atlantic fin whales (February 1991); North Pacific minke whales (May 1991); and Western Arctic bowhead whales (May 1991). The Scientific Committee plans to assess Southern Hemisphere whale stocks other than minke whales at its 1992 meeting.

The Committee's assessment process encountered difficulties because there were uncertainties concerning key issues such as stock discreteness and mixing rates, interpretation of abundance trends, and appropriate maximum sustainable yield rates and levels. In some instances, for example, the North Atlantic fin and minke whale assessments, data were simply not available and this required that the Committee use "best guess" estimates based on information from other species or mathematical simulations in order to undertake the assessments. Some Committee members questioned the accuracy of assessments based on such premises; they also questioned whether the assessments could or should be done before revised management procedures were agreed upon. They noted, for example, that the difficulties plaguing the assessments were the same ones that had resulted in the failure of the "New Management Procedure," and that these limitations continued to prevent the Committee from reaching agreement on stock status.

At the 1991 Scientific Committee meeting, it was clear that agreement on comprehensive assessments would continue to be problematic without agreement on a revised management procedure and a procedure for identifying and obtaining missing information prior to undertaking an assessment. The Committee agreed that before further assessments were attempted, it would first need to determine whether adequate data were available to attempt the assessment of a stock. If not, data needs would have to be identified and satisfied before the assessments were to proceed.

The Marine Mammal Commission believes that the comprehensive assessment of whale stocks should follow a logical process whereby: Available information is first assessed for completeness; additional data and information needs are identified; the needed data and information are obtained; and then the assessment is undertaken with the benefit of adequate data and information. In this regard, the United States should be prepared to offer advice on and assist in the compilation and analysis of the information needed to undertake Comprehensive Assessments. To this end, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration convene a group of knowledgeable scientists with expertise in population assessment to identify the data needs for comprehensive assessments of priority stocks, including small cetaceans, and, before the 1992 meeting of the Scientific Committee, prepare a scientific background paper or papers recommending minimum data requirements and minimum levels of precision necessary for comprehensive assessments.

2.3 Revising the International Whaling Commission's Conservation Program

With the continuing decline of exploited whale stocks, the International Whaling Commission eventually shifted its basis for management in the early 1970's from Blue Whale Units to catch limits by species and then to catch limits by stock. Catches continued to decline and, in 1975, the International Whaling Commission adopted the New Management Procedure, which established a system of classifying stocks within one of three categories (i.e., Protected, Sustained Management, and Initial Management Stocks). Stock classifications were based on estimated stock size relative to estimated maximum sustainable yield levels. No catches were allowed from Protected Stocks and different levels of catch were established for the remaining two categories depending upon stock size, estimated maximum sustainable yield levels, and various other factors.

As noted above, the Scientific Committee encountered problems applying the New Management

Procedure because data were insufficient to allow the Committee to accurately estimate maximum sustainable yield levels and rates, pre-exploitation stock levels, biological parameters, population trends, *etc.* The Committee demonstrated that even the best available information lacked sufficient precision to allow detection of population declines before stocks were seriously depleted. After the early 1980s, the Scientific Committee was unable to reach consensus on recommendations for stock classifications and catch limits. In the absence of agreement on stock status, catches from some stocks continued at levels equal to the previously unregulated catches.

The United States and others therefore pressed for revisions to the New Management Procedure to take into account, among other things, uncertainties concerning the status of stocks. Upon adoption of the 1982 moratorium on commercial catches, the International Whaling Commission asked the Scientific Committee to undertake development of a recommended management procedure. To guide the Committee, the International Whaling Commission set forth the following three general management objectives in 1987:

"(i) stability of catch limits, which would be desirable for the orderly development of the whaling industry;

"(ii) acceptable risk level that a stock not be depleted (at a certain level of probability) below some chosen level (*e.g.*, some fraction of its carrying capacity) so that the risk of extinction of the stock is not seriously increased by exploitation;

"(iii) making possible the highest continuing yield from the stock."

The Scientific Committee examined five potential Revised Management Procedures by simulating their performance on imaginary stocks of whales; the Committee also examined the sensitivity of the procedures to data of different levels of quality (*e.g.*, levels of precision, levels of uncertainty, *etc.*) during a series of workshops and special meetings beginning in 1989. At its 1991 meetings, the Scientific Committee recommended and the International Whaling Commission adopted a single stock procedure developed by J. Cooke (termed the "C" procedure). The "C" procedure: (1) Assumes that the maximum sustainable yield level is 72% of the stock's carrying capacity or pre-exploitation size; (2) prohibits catches from stocks below 54% of their carrying capacity size);[3] and (3) includes a catch limit control that reduces the allowable catch from its maximum when the stock is at its carrying capacity size to zero as a stock approaches 54% of its carrying capacity size.

The Revised Management Procedure adopted by the International Whaling Commission is basically a procedure for calculating allowable catch levels. Like previous procedures, it is based upon outdated single-species, maximum sustainable yield concepts and as yet unverified assumptions concerning density dependent responses to exploitation. By itself, it does not constitute a significant revision of the Whaling Commission's conservation program. For example, the Revised Management Procedure does not consider either the effects on whales of a variety of human activities such as oil and gas exploration and development, commercial fishing, vessel traffic, pollution, or the adverse effects of whale catches on the marine ecosystems of which whales are a part. The Procedure does not specify necessary management measures for monitoring, verifying, or enforcing compliance with catch quotas and other regulations, and these must be defined for its implementation. With regard to stock status, the Scientific Committee needs to address another deficiency in the Procedure's implementation by establishing minimum allowable periods between assessments such that monitoring and research programs could or would be adequate to detect and assess population declines before the affected stocks are reduced below their maximum net productivity level.

The International Whaling Commission's conservation program will need more than the Revised Management Procedure if it is to conform to ecologically sound principles of living resource conservation. At a minimum, the United States and other nations must be assured that: (a) Research and monitoring measures are adequate to verify, with reasonable certainty, that exploited populations remain within their optimum sustainable range (*i.e.*, population size between maximum net productivity level and the maximum size which is supportable within the ecosystem); (b) no catches would be allowed from any depleted stocks (*i.e.*, stocks below 60% of initial size); (c) catches, in conjunction with other human activities affecting the whale stock, would not result in unsustainable mortality levels or reduce population levels more rapidly than can be detected by the monitoring program under the Revised Management Procedure; and (d) effective catch verification, enforcement, inspection, and population monitoring programs must receive the full support of and participation by all countries engaged in commercial whaling; and (e) catches, in conjunction with other human activities affecting whale stocks, do not lead to changes in the ecosystems of which the whales are a part.

A problem with regard to takes of depleted species, for example, is the difference between the protection level of 54% of initial population size specified in the "C" procedure and the lower range of optimal sustainable population size (maximum net productivity level) of 60% of initial population size recognized in the United States. In fact, a number of wildlife managers and scientists believe that the range of maximum net productivity levels for large whales could be as high as or higher than 70% of the initial population level.[4] Because the International Whaling Commission's protection level is below this level, and thus below the lower limit of the optimal sustainable population range, commercial takes of whales from populations below 60% of their initial size would be in conflict with U.S. law and, as directed by Congress in section 108(a)(4) of the Marine Mammal Protection Act, the United States should seek to have the International Whaling Commission's protection level changed.

The International Whaling Commission's conservation program will need to be brought into conformance with ecologically sound principles of living resource conservation before it can serve as the basis for any decision by a three-quarter majority of its member nations that commercial whaling can resume. Therefore, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration convene a working group of knowledgeable U.S. experts to review the successes and failures of other international conservation programs (*e.g.*, high seas driftnet monitoring programs, the Convention on the Conservation of Antarctic Marine Living Resources, *etc.*) and develop terms of reference for the monitoring, reporting, verification, enforcement, and research programs that would be necessary to effectively implement the Revised Management Procedure.

[3] This protection level is below the lower level of the Optimal Sustainable Population range (at least 60% of maximum size allowed by the environment) used by the National Marine Fisheries Service in making OSP determinations to date.

[4] Fowler, C.W. 1984. Density dependence in cetacean populations. In: Perrin, W.F., R.L. Brownell and D.P. DeMaster (eds) *Reproduction in Whales, Dolphins, and Porpoises*. p. 373–379. Report of the International Whaling Commission, Cambridge, U.K.

In addition, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with the Department of State, the Marine Mammal Commission, and other involved agencies, develop and present at the 1992 International Whaling Commission meeting a proposal for implementing revisions to the International Whaling Commission's conservation program to bring it into conformance with the modern principles of living marine resource conservation that have developed in recent years.

3. Issues of Concern

3.1 Aboriginal/Subsistence Whaling for Bowhead Whales

At its June 1977 meeting, the Scientific Committee reviewed information indicating that the subsistence take of Western Arctic bowhead whales by Alaska Eskimo whalers had increased throughout the early 1970's from approximately 50 to more than 100 whales struck per year, of which many were struck and lost. Concerned that the increasing subsistence take and a high struck-and-lost rate may jeopardize the population, the International Whaling Commission, acting on the advice of its Scientific Committee, eliminated the exemption that had allowed bowhead and other protected species of whales to be taken by Natives for subsistence purposes. Acting in part on a pledge by the U.S. Commissioner that the United States would undertake a comprehensive research program to more reliably assess and closely monitor the bowhead whale's population status and trends, the International Whaling Commission agreed to restore the Native subsistence exemption in December 1977.

Although the International Whaling Commission paid little attention to aboriginal/subsistence whaling before the 1970's, in 1981 it adopted, following discussions at several of its annual meetings, three broad objectives for the management of aboriginal/subsistence whaling. These were:

"To ensure that risks of extinction to individual stocks are not seriously increased by subsistence whaling;

"To enable aboriginal people to harvest whales in perpetuity at levels appropriate to their cultural and nutritional requirements subject to the other objectives; and,

"To maintain the status of whale stocks at or above the level giving the highest net recruitment and to ensure that stocks below that level are moved toward it, so far as the environment permits."

In 1982, the International Whaling Commission adopted a new paragraph, 13(a), to its Schedule of Regulations setting forth recommended principles and guidelines for establishing catch limits for aboriginal/subsistence whaling. The new scheme formally recognized the distinction between commercial and aboriginal/subsistence whaling and codified the International Whaling Commission's practice of attempting to strike a balance between the subsistence, cultural, and nutritional needs of aboriginal people and the need to protect depleted whale stocks. Specifically, with regard to depleted stocks, the new paragraph stated that:

"For stocks below the maximum sustainable yield level but above a certain minimum level, aboriginal/subsistence catches shall be permitted so long as they are set at a level which allows the whale stock to move to the maximum sustainable yield level."

Quotas established by the International Whaling Commission are to be based on advice from the Scientific Committee and are implemented by the member nations. In the United States, the Secretary of Commerce and the Alaska Eskimo Whaling Commission share responsibility for regulating, monitoring, and enforcing agreed levels on the Alaska Eskimo bowhead whale hunt pursuant to a Memorandum of Understanding signed in 1981 and renewed annually.

To comply with the new Schedule paragraph 13(a), the United States Department of the Interior began, in 1987, to develop a quantitative basis for determining the nutritional, subsistence, and cultural needs of the Alaska Eskimos. It calculated need by multiplying the mean annual number of bowhead whales landed per capita during the period (1910–1969) by the present Eskimo population in the nine whaling villages. This indicated that current cultural and subsistence need would be satisfied by a take of 41 landed whales per year. The United States subsequently requested and received a quota of 41 landed or a maximum of 44 struck for the years 1989, 1990, and 1991. During that period, the struck-and-lost rate was 25%, and based on this rate, at the 1991 meeting of the International Whaling Commission, the United States asked for a combined three year limit of 141 strikes plus a carry over from the current quota of up to 13 unused strikes, with no more than 54 whales struck or 41 landed in any one year for the years 1992, 1993, and 1994. The International Whaling Commission subsequently adopted these proposed catch limits.

The Scientific Committee undertook a comprehensive assessment of the Western Arctic bowhead whale stock at its 1991 meeting. The assessment produced, among other things: a new estimated initial (1848) population size of 12,400–18,200 whales; a current population estimate of 7,500 whales (95% confidence interval 6,400 to 9,200); a provisional rate of increase of 3.1% (95% confidence interval 0.1% to 6.2%) during the period from 1978 to 1988; and a minimum (lower 95% confidence interval bound) estimated annual replacement yield of 92 whales. This new information suggests that the Western Arctic stock has increased under relatively consistent subsistence catches of approximately 0.3% per year and may be closer to its maximum net productivity level than previously thought.

In August of 1991, the Minister of Fisheries and Oceans of Canada approved, without consultation with the International Whaling Commission, a license for the take of one bowhead whale by the Western Arctic Native community of Aklavik in Canada. These Canadian Natives subsequently took one bowhead whale. Canada is no longer a member of the International Whaling Commission and this action, absent consultations with the International Whaling Commission, should be viewed as "diminishing the effectiveness" of the International Whaling Commission's conservation program and grounds for certification under U.S. law. Therefore, the Marine Mammal Commission recommends that the Secretary, notwithstanding a complete investigation of the circumstances surrounding the issuing of a license by the Canadian Government for the take of a bowhead whale from the Western Arctic stock, certify the Government of Canada under the Pelly Amendment for "diminishing the effectiveness" of the International Whaling Commission's conservation program.

Despite indications of slow but continuing recovery, the Western Arctic bowhead whale population remains threatened by Arctic offshore oil and gas exploration and development. In the past, the National Marine Fisheries Service, the Minerals Management Service, Eskimo Native organizations, and the oil and gas industry supported and/or conducted research on the population status and the possible effects of offshore oil and gas resource exploration and development on the whales, their habitat, and availability for Native subsistence use. The National Marine Fisheries Service has the lead responsibility to maintain domestic oversight and coordination of Federal, State, and private bowhead whale research programs to ensure that bowhead whale studies are well-

designed, properly coordinated, and not unnecessarily duplicative.

In 1981, Congress added section 101(a)(5), the "small take exemption," to the Marine Mammal Protection Act to allow the Secretary of the Interior and the Secretary of Commerce to authorize the incidental but unintentional taking of small numbers of non-depleted marine mammals by U.S. citizens engaged in specified activities (*e.g.*, offshore oil and gas development) within specified geographic regions for periods of up to 5 years. Specifically, take of small numbers of marine mammals may be authorized if the Secretary—

"(i) finds that the total of such taking during each five-year (or less) period concerned will have a negligible impact on such species or stocks and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or, in the case of a cooperative agreement under both this Act and the Whaling Convention Act of 1949, pursuant to section 112(c); and,

(ii) prescribes regulations setting forth—(I) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses; and (II) requirements pertaining to the monitoring and reporting such taking."

Pursuant to section 101(a)(5) of the Act, the National Marine Fisheries Service published, in 1990, regulations authorizing the incidental, non-lethal take of bowhead whales and other marine mammals in the Beaufort and Chukchi Seas from 1990 through 1995. The regulations require, among other things, reporting and monitoring programs to: (1) Verify that the level, manner, and effects of the take are inconsequential, and (2) to detect any unforeseen effects of the take.

Similarly, the Outer Continental Shelf Lands Act Amendments of 1978 also require the Secretary of the Interior to conduct environmental monitoring studies, including post-leasing studies, to:

"establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the Outer Continental Shelf and the coastal areas which may be affected * * * [and] in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes."

In this regard, the National Marine Fisheries Service is responsible for providing advice as to what research and monitoring need to be done and for coordinating various related activities, but not necessarily for funding or conducting all the needed research and monitoring.

The U.S. commitment to a comprehensive bowhead whale assessment and monitoring program has been and will continue to be of critical importance to its participation in International Whaling Commission meetings. Also, because the National Marine Fisheries Service is responsible for advising the Minerals Management Service as to what should be done to ensure that oil and gas development does not jeopardize the continued existence of the Western Arctic bowhead population or result in damage to or destruction of habitat critical to its survival, the Marine Mammal Commission believes that a recovery plan could facilitate the development, coordination, implementation, and funding of programs to protect and encourage the recovery of the Western Arctic bowhead whale stock.

With these points in mind, the Marine Mammal Commission has recommended that the National Marine Fisheries Service develop and implement a recovery plan that takes into account long-term monitoring and management needs relative to subsistence takes and the effects of oil and gas resource development on the Arctic marine habitat. Further, the Marine Mammal Commission recommends that the National Marine Fisheries Service continue to undertake or cause to be undertaken the resource called for by the International Whaling Commission to monitor the status of the Western Arctic bowhead stock and the effect of the subsistence take thereon, including: A 1992 visual and acoustic census; simulation studies to determine optimum frequency for future censuses; and determination of bowhead whale habitat needs and threats.

3.2 Authority for Small Cetacean Issues

Small cetaceans (dolphins, porpoises, and other small toothed whales) include some of the world's most endangered species and populations. A number of these species or populations are subject to direct subsistence and commercial catches as well as to incidental takes in unregulated and regulated fisheries. Often the effects of these activities on small cetacean populations are recognized only after extensive declines have reduced stocks to perilous levels. For many coastal populations, additional pressures result from loss of or displacement from important feeding and/or breeding habitats as the result of oil, gas, or mineral exploration and/or development, hydroelectric development, and fisheries development. In some areas, fishermen view small cetaceans as competitors for fish resources and conduct culling programs. In other areas, incidental takes of small cetaceans have evolved into directed fisheries. Further insults are visited on certain small cetacean populations through disease and die-offs. Compounding these problems are attempts to balance the short-term welfare and interests of local human populations with the longer-term benefits of conserving species and ecosystems.

In 1988, the World Conservation Union's (formerly the International Union for the Conservation of Nature and Natural Resources—IUCN) Species Survival Commission produced an "Action Plan for Conservation of Dolphins, Porpoises, and Whales: 1988–1992" [5] that calls attention to the plight of small cetaceans. The Plan describes actions that may be sufficient to prevent the extinction of species and populations currently in danger; the Plan also seeks to promote sustainable relationships between cetaceans and people. It points out that, while there are many organizations and agencies working to solve problems concerning the regulation of commercial takes of large whales, small cetaceans have received and are receiving far less attention and protection than the great whales despite the severe problems facing many populations and species.

The Whaling Convention itself does not define the species it was created to cover. This has generated extensive debate over the International Whaling Commission's competence to regulate catches of small cetaceans, particularly as it relates to the rights of coastal states to regulate small cetacean catches within their respective Exclusive Economic Zones. Despite a lack of consensus on this issue, the International Whaling Commission adopted in 1980 a resource which: (1) Noted that the question of the International Whaling Commission's competence over small cetaceans was

[5] Perrin, W.F. 1989. Dolphins, Porpoises, and Whales—An Action Plan for the Conservation of Biological Diversity: 1988–1992. International Union for the Conservation of Nature, Species Survival Commission, Cetacean Specialist Group and the United States National Marine Fisheries Service, NOAA. Second Edition.

not resolved; (2) recommended that the Scientific Committee's sub-committee on small cetaceans continue to review the status of small cetaceans and develop advice on their conservation; and (3) invited all contracting governments to consider that advice. Following the 1980 meeting, the National Oceanic and Atmospheric Administration's General Counsel prepared a legal memorandum which concluded, among other things, that nothing in the Convention explicitly limited its authority to large cetaceans and that its broad, preambulatory language suggested an intent to provide comprehensive management of all cetacean exploitation.

At its 1990 meeting, the International Whaling Commission adopted a resolution instructing the Scientific Committee to draw together available information on the status of small cetacean stocks subject to significant directed and incidental takes and the impact of those takes on the stocks; it also directed the Committee to provide such scientific advice as may be warranted. The Scientific Committee presented its report on small cetaceans at the Commission's 1991 meeting. In a second resolution adopted at the meeting, the International Whaling Commission decided to forward the Scientific Committee's report to the 1992 United Nations Conference on Environment and Development, as well as to non-contracting governments, intergovernmental organizations, and other appropriate groups.

Since 1980, the United States' position on small cetacean issues has been that: (1) The Convention provides jurisdiction over all cetaceans; (2) catch limits for the direct take of small cetaceans should be listed in the International Whaling Commission's Schedule and based on advice from the Scientific Committee; (3) an overview of indirect take should be maintained by the International Whaling Commission, but regulation of such take should be under appropriate regional fisheries organizations; and (4) the question of coastal states' rights should not be discussed with the respect to small cetaceans since its implications also apply to the International Whaling Commission's competence over large cetaceans. The Marine Mammal Commission has supported this position. However, with the growing understanding of the worldwide plight of small cetaceans and their habitats, the Marine Mammal Commission believes that the United States needs to increase its efforts within the International Whaling Commission in support of cooperative conservation action directed at small cetaceans.

To this end, the Marine Mammal Commission Recommends that the National Oceanic and Atmospheric Administration, in consultation with the Department of State, the Marine Mammal Commission, and other involved agencies, develop and propose revisions to the International Whaling Convention and to the International Whaling Commission's Schedule of Regulations that will formally establish the International Whaling Commission's competence to regulate catches of all cetaceans.

3.3 Special Permits for Scientific Research

Article VIII of the Whaling Convention provides that any member government may grant special permits to its nationals to take whales for scientific research and that the whales taken may be processed and sold in accordance with that government's directions. The International Whaling Commission's Schedule of Regulations requires that the Commission and its Scientific Committee be given the opportunity to review and comment on proposed special and certain related information before a special permit is issued.

Since 1985, the International Whaling Commission has adapted several resolutions setting forth criteria and guidelines governing its review of proposals for special permits involving the lethal take of whales for research purposes. These guidelines, among other things, require that nations provide descriptions of their planned research programs and report the results of their research programs in a timely manner. The purpose is to allow the Scientific Committee opportunity to determine if the research is scientifically sound, meets critical needs, or otherwise contributes to the Commission's conservation program. Considering the advice of its Scientific Committee, the International Whaling Commission has adopted resolutions calling upon members to refrain from issuing permits, and to reconsider ongoing or planned programs that do not fully satisfy the International Whaling Commission's whale research criteria and guidelines. Although resolutions adopted by the International Whaling Commission reflect a majority view of voting members, such resolutions are not binding upon contracting governments.

The United States considers failure to follow resolutions adopted by the International Whaling Commission to be grounds for certifying offending nations under two provisions of domestic law—the Packwood/Magnuson Amendment to the Magnuson Fishery Conservation and Management Act and the Pelly Amendment to the Fishermen's Protective Act. Pursuant to these two provisions, the Secretary of Commerce is required to notify the President if he determines that foreign nationals are conducting fishing operations, including whaling, in a manner that "diminishes the effectiveness" of an international fishery conservation program. Certification under the Packwood-Magnuson Amendment mandates an immediate 50 percent reduction in the offending nation's fishery allocation from U.S. waters. Under the Pelly Amendment, the President has discretion to impose economic sanctions by restricting imports of fishery products into the United States from the certified nation.

In recent years, both Norway and Japan have been certified under U.S. law for proceeding with "scientific" whaling programs despite International Whaling Commission resolutions asking these nations to "refrain" from issuing permits for lethal takes and/or to "reconsider" their research programs. For several reasons, these certifications have not achieved their desired effect. Sanctions under the Packwood-Magnuson Amendment are meaningful only for those nations which receive substantial fishing allocations under the Magnuson Fishery Conservation and Management Act. As foreign fishing within the U.S. Exclusive Economic Zone has declined, the significance of such sanctions has declined. Most recently, an August 1991 ruling by a panel of the General Agreement on Tariffs and Trade suggests that the United States, or any other signatory to the General Agreement on Tariffs and Trade, cannot impose import/export trade sanctions to enforce domestic conservation or environmental laws outside their territorial jurisdiction. If upheld, the General Agreement on Tariffs and Trade panel ruling would prevent the United States from utilizing certifications and trade sanctions to encourage compliance with International Whaling Commission rulings.

Given the questionable significance of future certifications and sanctions, the United States should seek alternative means to enlist support for and compliance with the International Whaling Commission's conservation program. For example, multi-lateral discussions within the International Whaling Commission's Scientific Committee and within the Commission itself persuaded the Government of Japan to take action to reduce their unsustainable catches of Dall's porpoise and to undertake research to assess the

status of the affected populations in the North Pacific despite Japan's insistence that the management of small cetaceans was outside the purview of the organization. This action by Japan in response to pressure from other member nations suggests that multi-lateral discussions and negotiation within the International Whaling Commission and other fora may be useful for building consensus to resolve international conservation issues outside of trade issues.

Therefore, if the Secretary of Commerce finds that the actions of a member nation "diminish the effectiveness" of the International Whaling Commission's conservation program, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in addition to considering certifications and trade sanctions under U.S. law, in consultation with the Department of State and the Marine Mammal Commission, undertake or cause to be undertaken multi-lateral discussions and negotiations aimed at persuading offending nations of the value of complying with the International Whaling Commission's program.

4. Revision of the 1946 Whaling Convention

The 1946 International Convention for the Regulation of Whaling created the International Whaling Commission to "make possible the orderly development of the whaling industry." Despite its intentions, the International Whaling Commission's management program has allowed the depletion of the stocks upon which the whaling industry depended.

It may be argued that the failure of the International Whaling Commission to adequately manage the whaling industry and conserve whale stocks was largely due to failure of the International Whaling Commission to follow the advice of its Scientific Committee. In retrospect, even if the Committee's advice had been followed, the ultimate decline of whale stocks would likely have been assured because the International Whaling Commission's Scientific Committee: (1) did not have sufficient knowledge of the biology, ecology, and demography of the affected species; (2) failed to accurately assess the possible direct and indirect effects of new fisheries and substantial increases in existing fisheries, before commitment of significant resources to new or further fishery development; (3) failed to design and carry out effective monitoring programs to verify the predicted first- and second-order effects and detect any unforseen effects of fisheries development; and (4) failed to effectively factor uncertainties (safety factors) into fishery development and management strategies.

The Whaling Convention does not incorporate modern principles of living resource conservation. It does not recognize non-consumptive values of whales; it does not specifically mandate Commission authority over small cetaceans; and it does not recognize either that whales may be affected by activities other than direct exploitation or that the exploitation of whales may affect other components of the ecosystem of which they are a part. As noted above, it also includes a provision which allows governments to issue special permits to their nationals for lethal takes of whales for research with or without the approval of the International Whaling Commission. Also, it has no stated objectives in any of the substantive articles (*i.e.*, the only statement of objectives is in the non-binding preamble).

As noted earlier, section 113 and section 108(a)(4) of the Marine Mammal Protection Act direct that the purposes and policies of the Act be the official policies of the United States in negotiating and renegotiating international agreements concerning marine mammals. The Act also directs responsible U.S. agencies to seek to amend international agreements, such as the International Convention for the Regulation of Whaling, to bring them into conference with the Marine Mammal Protection Act.

Therefore, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in concert with the Department of State and in consultation with the Marine Mammal Commission, seek to renegotiate the International Convention for the Regulation of Whaling to: (a) Bring it into conformance with modern principles of living resource management; (b) more explicitly provide for the conservation of small as well as large cetaceans; and (c) require members to follow the advice of the International Whaling Commission concerning lethal research programs. To this end, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration convene an interagency group of experts to review the 1946 Whaling Convention and develop recommendations for revision of the Convention and the International Whaling Commission's conservation program to insure that the philosophical and functional aspects are carried forward in a manner consistent with the purposes and policies of the Marine Mammal Protection Act. The recommendations of this working group should form the basis for U.S. policy regarding the International Whaling Commission's conservation program.

As a starting point, the Marine Mammal Commission suggests seeking the following revisions to the Whaling Convention:

1. Article I of the Convention be renumbered Article II, that subsequent articles be renumbered accordingly, and that the following statement of purposes be added—

"Article I

"1. The objective of this Convention is the conservation of all species and populations of cetaceans throughout the world.

"2. For the purposes of this Convention, the term "conservation" includes consumptive and non-consumptive uses.

"3. Any consumptive and non-consumptive uses of cetaceans shall be designed and carried out in accordance with the provisions of this Convention so as to:

a. prevent any population from being reduced below its maximum net productivity level;

b. promptly restore populations that are reduced below their maximum net productivity level;

c. maintain the ecological relationships between cetacean populations and other components of the ecosystems of which they are a part; and

d. maintain the fullest possible range of management options for present and future generations."

2. Revise paragraph 2 of present Article I to read something like—

"2. This Convention applies to directed and incidental taking of all cetaceans and to all persons, vessels, and facilities under the jurisdiction of the Contracting Parties engaged in or supporting the taking of cetaceans."

3. If present Article I is modified as suggested, Article II would have to be expanded to include definitions for cetacean, population, stock, take, and maximum net productivity level.

4. Expand Article IV subparagraphs 1 (a) and (b) to reference other activities (in addition to whaling) affecting whales— *e.g.*,

"(a) encourage, recommend, or, if necessary, organize studies and investigations relating to whales, whaling, *and other activities affecting whales or their habitat;*

"(b) collect and analyze statistical information concerning the current

conditions and trends of the whale stocks and the effects of whaling *and other activities* thereon;"

5. Alter paragraph 2 of Article V to read something like—

"2. These amendments of the Schedule (a) shall be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilization *of the cetacean resources;* (b) shall be based on scientific findings; (c) *shall provide for the equitable allocation of any authorized take among both consumptive and non-consumptive users;* and (d) shall take into consideration the interest of the *international community as a whole, as well as the* consumers of whale products and the whaling industry."

6. Modify the first sentence in Article VIII to require that contracting governments not issue "scientific" whaling permits without the approval of the Commission—*e.g.*, revise the sentence as follows—

"1. Notwithstanding anything contained in this Convention, any contracting government may grant to any of its nationals, *following review and approval by a three-fourths majority of the Commission,* a special permit * * *"

7. Add an article requiring development of a system of research, monitoring, observation, inspection, and verification— *e.g.*,

"Article VIII

"1. To promote the objectives of and ensure compliance with the provisions of this Convention, the Contracting Parties agree that a system of population monitoring and research, catch verification, observation, and inspection shall be established and that no consumptive or non-consumptive uses of whales which entail takings will be allowed until the system is in place.

"2. The system shall include, *inter alia*, procedures for (a) establishing population monitoring and research programs to assess stock status and to detect and assess effects of catches on stocks; (b) designating observers and inspectors by Members of the Commission; (c) placing of observers and inspectors aboard all or representative subsets of vessels engaged in commercial whaling and whale watching to gather information needed to assess the impacts of the activities and to ensure compliance with applicable regulations; (d) at-sea boarding of vessels engaged in commercial whaling for purposes of inspection by designated inspectors; and (e) flag state investigation and prosecution of reported violations of any provisions of this Convention or measures adopted pursuant thereto."

5. Future of the International Whaling Commission

The adoption in 1982 of "zero" catch quotas pursuant to paragraph 10(e) of the Schedule was criticized by some member nations on the grounds that the moratorium had no scientific basis and that it was in contradiction of the purposes and provisions of the Whaling Convention. As the Comprehensive Assessment and the Revised Management Procedure workshops ensued, some pro-whaling nations became increasingly impatient with the seemingly slow progress of the Scientific Committee. In 1990, Iceland, Norway, Greenland, and the Faroe Islands formed the North Atlantic Marine Mammal Management Organization, a regional organization established to provide scientific and management advice on marine mammals in the North Atlantic. This Organization is seeking a scientific association with the International Council for the Exploration of the Seas. Either organization could conflict with the International Whaling Commission if either should provide management advice differing from that of the Commission.

More recently, at the 1991 International Whaling Commission meeting, representatives of the Government of Iceland declared that the International Whaling Commission was not living up to its purpose and that Iceland was considering withdrawing from the Convention. In September 1991, representatives of the Government of Norway made known the fact political pressure to withdraw from the International Whaling Commission was building within Norway and that the country would have to make a decision soon as to whether it was to its advantage to remain within the International Whaling Commission.

The Marine Mammal Commission believes that an effective international whale conservation program is essential. There is no doubt that the International Convention for the Regulation of Whaling and the International Whaling Commission have not been entirely satisfactory fora in which to seek to achieve strong conservation programs. However, their dissolution now would not serve to further the development of effective conservation programs. Maintaining the International Whaling Commission as the principal international body responsible for cetacean conservation is probably the best way to achieve immediate objectives such as integrating modern principles of living marine resource conservation into whale management. Furthermore, reaching a consensus as to the conditions under which the resumption of whaling could be considered would demonstrate that the members of the Commission are able to accommodate a broad range of conservation views. Keeping the International Whaling Commission intact also might do much to encourage responsible management actions by nations in other international conservation fora.

Therefore, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with the Department of State and the Marine Mammal Commission, take such actions as may be necessary to encourage continued participation of member nations in the International Whaling Commission. In addition, until such time as the International Convention for the Regulation of Whaling is amended to embrace modern principles of living resource conservation and the Revised Management Procedure includes an agreed system for the observation, reporting, verification, and inspection of catches, the Marine Mammal Commission recommends that the U.S. policy should be to continue to oppose any resumption of commercial whaling.

Addendum B

January 13, 1992.

Mr. John R. Twiss, Jr.,
Executive Director, Marine Mammal Commission, 1825 Connecticut Avenue, NW., Washington, D.C. 20009.

Dear John Twiss: Thank you for the letter regarding the future of the International Whaling Commission (IWC) and U.S. participation in the IWC. I intend to undertake a thorough review of the recommendations in your letter and enclosed Issued Paper. To commence that review, I am initiating a Task Force and a number of Working Groups to review and recommend the best course of action for the United States. We will be meeting in early January to outline the responsibilities of these groups and their timelines. I envision that these preparations will require a series of Federal agency meetings and will ensure that the Marine Mammal Commission is an involved and active participant in these discussions.

On one special point, I agree that we should try to bring all cetaceans under an IWC conservation program as quickly as possible. Recognizing that amendment of the convention is likely to be a slow and uncertain process, we have already commenced to consider amendments to the schedule that would be necessary to cover all cetaceans under the current convention.

I found the Commission's letter creative, thoughtful, and very helpful. I look forward to working with you, the other concerned

agencies, and our constituencies to develop the U.S. initiatives for the 1992 IWC Meeting.

Sincerely,

John A. Knauss

[FR Doc. 92-2781 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-22-M

[Docket No. 920127-2027]

Information Relating to Bowhead Whales; U.S. Implementation of Bowhead Whale Strike Quota for 1992

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

ACTION: Notice of information and request for public comment.

SUMMARY: Information is published by NOAA for use in the development of the U.S. position before the International Whaling Commission (IWC) on the aboriginal/subsistence take of bowhead whales and in the domestic allocation of the existing IWC quota for bowhead whales to U.S. natives. By this notice, NOAA is soliciting public comment on the proposed allocation of the IWC bowhead whale catch limit in 1992.

DATES: Comments must be submitted on or before April 6, 1992.

ADDRESSES: Written comments may be mailed to the Office of International Affairs, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. A list of documents reviewed for this action may be obtained on request, and the documents examined during business hours (9 a.m. to 5 p.m.) at this address.

FOR FURTHER INFORMATION CONTACT: Becky Rootes, (301) 713-2276.

SUPPLEMENTARY INFORMATION: NOAA is responsible for implementation and enforcement of the Marine Mammal Protection Act (16 U.S.C. 1361-1407), the Endangered Species Act (16 U.S.C. 1531-1543) and the Whaling Convention Act 16 U.S.C. 916-916/). In addition, it provides staff support to the U.S. Commissioner to the IWC and to the IWC Industry Committee. Consistent with these responsibilities, the Agency develops positions for implementation of the aboriginal/subsistence harvest of bowhead whales under Paragraph 13 of the Schedule to the International Convention on the Regulation of Whaling, December 2, 1946, 62 Stat. 1716, T.I.A.S. No. 1849 (entered into force, November 10, 1948). In order to provide for review and comment by the public of the data upon which the U.S. positions are based, the following information is provided: (1) The IWC catch level available for the U.S. aboriginal/subsistence bowhead whale harvest for 1992-1994; (2) a summary of available bowhead scientific information including estimates of current population level and annual recruitment rates; (3) a summary of information on the nature and extent of aboriginal/subsistence need; (4) the level of aboriginal/subsistence harvest limits which could be implemented domestically; and (5) notice of the availability of those documents reviewed by NOAA and relied on by the Administrator of NOAA in making his finding on the range of harvest limits. By this notice, NOAA is soliciting public comment on the proposed domestic implementation of the IWC bowhead whale catch limit for 1992.

1. Catch Level

At the 43rd Annual Meeting of the IWC, Reykjavik, Iceland, May 27-31, 1991, the following catch limit was established for aboriginal/subsistence whaling: "The taking of bowhead whales from the Bering-Chuckchi-Beaufort Seas stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that: For each of the years 1992, 1993, and 1994 combined, the total number of whales struck shall not exceed 141, except that; any unused strikes up to ten percent of the total strikes allowed in the years 1989, 1990, and 1991 combined shall be carried forward from those years and added to the combined total of strikes for the years 1992, 1993, and 1994; and in any one year no more than 54 whales shall be struck and no more than 41 shall be landed. (Schedule to the Convention, Paragraph 13(b)(1)(i) (A) and (B).)

2. Scientific Information

At the 1991 IWC meeting, the Scientific Committee agreed that the Bering-Chuckci-Beaufort Sea population of bowhead whales is between 6,400 and 9,200 animals, with a most likely estimate of 7,500 whales. A minimum estimate of the replacement yield (RY) was calculated to be 92 whales per year, and the most likely replacement yield for the population size of 7,500 is 254 whales per year. The replacement yield defines the number of new whales annually joining the adult population, and it is assumed that, all other things being constant, up to this number could be taken from the population without causing it to decline.

3. Aboriginal/Subsistence Need

The Department of the Interior (DOI) conducted its analysis of the nature and extent of aboriginal/subsistence need for bowhead whales and whaling in 1983 and the IWC adopted this method for quantifying need in 1986. The Department of the Interior contracted a new study on the quantification of subsistence and cultural need for bowhead whales in 1987 which was presented at the 1988 meeting. The new study presented the cultural and subsistence need of the nine Alaska Eskimo whaling villages to take 41 landed bowhead whales. This quantification of need used the same method of calculation accepted by the IWC in 1986. This method derives the mean annual number of bowhead whales landed per capita during a specified historical period and multiplies this mean by the current Eskimo population of nine Alaska Eskimo whaling villages. The result of this calculation is the total number of bowhead whales the nine Eskimo whaling villages need to land each year in order to meet their cultural and subsistence need.

When the IWC adopted this method of quantifying need, members of the IWC Aboriginal Subsistence Subcommittee noted that the quantification was based on a large but incomplete series of data on historical bowhead landings. It was also noted that the quantification used an inconsistent data base period. The Department of the Interior Study was initiated to correct these deficiencies. To complete the series of data on historical bowhead whale landings to the extent possible, the study undertook a comprehensive review of available published and unpublished sources of bowhead landings. Remaining gaps are unlikely to be significantly reduced with further searches for historic data on bowhead landings. The data resulting from this study also permitted the use of a consistent historical base period for the calculation of need. In the prior analysis, the base periods varied from 1940 to 1970 and 1950 to 1970. The base period now begins in 1910, the year following the cessation of commercial whaling in the Arctic, and ends in 1969, prior to the period of unusually high bowhead harvests in the unique economic circumstances of the 1970s. Therefore, applying the additional landed bowhead data and the longer period to the accepted method of quantifying need, results in a current cultural and subsistence need of 41 landed whales.

4. Domestic Harvest Range

The IWC management scheme for aboriginal/subsistence whaling provides (in Schedule paragraph 13(a)(2)): "For stocks below the maximum sustainable

yield (MSY) level but above a certain minimum level, aboriginal/subsistence catches shall be permitted so long as they are set at levels which allow whale stocks to move to the MSY level." Given the above stated estimates of replacement yields ranging from 92 as a lower bound to 254 whales for the point estimate recruited into the population annually, the aboriginal/subsistence catch can be permitted so long as it is set at a level that allows the whale stock to move to the MSY level.

The catch limit for bowhead whales for the years 1992–1994, established by the IWC, is 141 strikes plus 13 strikes carried over from the previous block quota with no more than 54 whales struck and no more than 41 landed in any one year. Therefore, the number under consideration for allocation to the Alaska Eskimo Whaling Commission for the 1992 catch limit is 54 strikes or 41 landed whales.

5. Documents Reviewed

A list of the documents reviewed for this action may be obtained on request from the address above. The documents are available for public inspection during the 60-day public comment period at the same address.

Authority: 16 U.S.C. 1361–1407, 1531–43, 916.

Dated: January 22, 1992.

John A. Knauss,

Under Secretary for Oceans and Atmosphere.

[FR Doc. 92–2782 Filed 2–5–92; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information may be obtained by writing to: National Technical Information Service, Center for Utilization of Federal Technology—Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151 or by telephoning (703) 487–4732. All patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487–4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology.

Department of Health and Human Services

7–531,317 (U.S. 5,071,962) Nucleotide, Deduced Amino Acid Sequence, Isolation and Purification of Heat-Shock Chylamdial Proteins

Department of the Interior

7–327,930 (U.S. 5,078,473) Pyramid Beam Splitter
7–553,467 (U.S. 5,078,219) Concave Drag Bit Cutter Device and Method
7–784,451 Lead Removal From Hazardous Wastes
7–789,206 Slow-Release Nitrogen Fertilizer and Soil Conditioner
7–805,223 Cryogenic Slurry for Extinguishing Underground Fires
7–813,709 Fixture for Forming Evaporative Pattern (EPC) Process Patterns

Department of Agriculture

7–437,320 (U.S. 5,034,513) Avian Interleukin-2
7–593,174 (U.S. 5,077,441) Selective Gossypol Abatement Process from Oil Extraction of Cottonseed
7–792,508 Citrus Proteins for Use in Field Detection of Citrus Blight Using Immunological Techniques
7–800,315 Copper Hydroxide as a Repellent

[FR Doc. 92–2887 Filed 2–5–92; 8:45 am]

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Licensing information may be obtained by writing to: National Technical Information Service, Center for Utilization of Federal Technology—Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151 or by telephoning (703) 487–4732. All patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487–4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology.

Department of Health and Human Services

7–352,313 (U.S. 5,063,206) Compositions Having Use as Treatment of Psoriasis and Neurosychiatric Deficits
7–424,030 Coiled Stent and Use Thereof (Effecting Heart Assist Through Peripheral Cannulation Alone)
7–533,442 (U.S. 5,061,488) Flavone-8-Acetic Acid and Interleukin-2 for Cancer Therapy (especially renal carcinoma)
7–564,877 Method and Apparatus for Assessing Metabolic and Behavior Physiology of Animals
7–620,410 A Novel Vasoactive Intestinal Peptide Antagonist
7–678,918 Automated Method and Apparatus for Determining Characteristics of Nerve Fibers
7–693,291 Lens Major Intrinsic Protein Gene
7–697,275 Transmission-Blocking Vaccine Against Malaria
7–697,395 Treatment of Alcohol Withdrawal Symptoms
7–701,157 Stable End-Point Microculture Tetrazolium Assay (SE–MTA) to Measure Cell Growth/Growth Inhibition for Experimental Drug Evaluation
7–712,152 Perilipin
7–715,762 Radiolabeled N-Substituted-6-iodo-3,14-dihydroxy-4,5 alpha-epoxymorphinans, Intermediates for Producing the Same, and a Process for the Preparation and Methods of Detecting Opioid Receptors
7–723,240 Molecular Encapsulation and Delivery of Alkanes to Living Mammalian Cells for Risk Assessment and Pharmaceutical Applications
7–725,307 Method of Preparing Nuclear Extracts in Large Quantities
7–729,960 Thin Layer Chromatography Direct Sample Application Manifold
7–733,744 Method of Targeting DNA
7–742,763 Method for Quantification of Brain Volumes from Magnetic Resonance Images

7-745,381 B-Raf Protein Kinase
7-747,785 Flavivirus Envelope Proteins with Increased Immunogenicity for Use in Immunization Against Virus Infection
7-748,931 Raf Protein Kinase Therapeutics
7-749,001 A Human Cripto-Related Gene
7-751,009 Switching Valve System for Direct Biological Sample Injection for Liquid Chromatography (LC) Analysis
7-757,366 Portable Device for Producing solid Carbon Dioxide
7-759,738 Detection Method for C-Raf-1 Genes
7-761,157 Improved Two- and Three-Dimensional Autoradiographic Imaging Utilizing Charge Coupled Devices
7-761,222 Chimeric Dengue Viruses
7-780,205 Lipopolysaccharide Carriers for Use in Vaccines

Department of the Interior

7-582,690 (U.S. 5,060,751) Pneumatic Wall-Locking Geophone System

Department of Agriculture

7-246,842 (U.S. 5,053,327) High Affinity Monoclonal Antibodies to Bowman-Birk Inhibitor and Immunoassay Methods
7-514,478 (U.S. 5,058,444) System for Analyzing Entrained Solids Such as Cotton or Seed
7-536,865 (U.S. 5,056,721) Method for Classifying Wheat Kernels as Hard or Soft
7-592,735 (U.S. 5,060,483) Twin Rinse Columns for Freeze Concentration of Rinsable Concentrates

[FR Doc. 92-2888 Filed 2-5-92; 8:45 am]
BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College.

ACTION: Notice of meeting.

SUMMARY: Open to the public on February 20, 1992, starting at 8:30 a.m. in Building 226, rooms SR 3 and 4, of the Defense Systems Management College, Fort Belvoir, Virginia. The panel will hear presentations/recommendations by the task force on its review of the out-of-scope laws, and by the various panel working groups on the statutes they have reviewed to date.

For further information contact Major Jean Kopala at (703) 355-2665.

Dated: February 2, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-2925 Filed 2-5-92; 8:45 am]
BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board of the Space and C³I Panel of 1992 Summer Study on Global Reach/Global Power will meet on 24-25 Feb 1992 from 8 a.m. to 5 p.m. at HQ Air Force Intelligence Command, San Antonio, TX.

The purpose of this meeting is to receive briefings and hold discussions on projects related to Space and C³I in support of Global Reach/Global Power. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-2780 Filed 2-5-92; 8:45 am]
BILLING CODE 3910-01.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0094; FAR Case 87-24]

OMB Clearance Request for Debarment and Suspension

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of a request for an extension to an existing OMB clearance (9000-0094).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request for an extension of a currently approved information collection requirement concerning Debarment and Suspension.

DATES: Comments may be submitted on or before April 6, 1992.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501-4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

The FAR requires contracts to be awarded to only those contractors determined to be responsible. Instances where a firm or its principals have been indicted, convicted, suspended, proposed for debarment, debarred, or had a contract terminated for default are critical factors to be considered by the contracting officer in making a responsibility determination. This certification would require the disclosure of this information.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 1,244,301; responses per respondent, 1; total annual responses, 1,244,301; preparation hours per response, 30 min. sub., 5 min. prime; and total response burden hours, 103,942.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0094, FAR Case 87-24, Debarment and Suspension, in all correspondence.

Dated: January 31, 1992.

Laurie A. Frazier,

FAR Secretariat.

[FR Doc. 92-2891 Filed 2-5-92; 8:45 am]
BILLING CODE 6820-JC-M

DEPARTMENT OF ENERGY

Energy Information Administration

[Forms EIA-871A-G]

Commercial Buildings Energy Consumption Survey

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of the Proposed Revision of Forms EIA-871A-G, "Commercial Building Energy Consumption Survey," and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub.

L. No. 96–511, 44 U.S.C. 3501 *et seq.*), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms care clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed revision to Forms EIA–871A–G, "Commercial Buildings Energy Consumption Survey".

DATES: Written comments must be submitted within 30 days of the publication of this notice. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contract listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Ms. Martha Johnson, Energy End Use and Integrated Statistics Division, EI–631, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, Telephone: 202/586–1135, FAX: 202/586–0018.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORMS AND INSTRUCTIONS: Requests for additional information or copies of the form and instructions should be directed to Ms. Martha Johnson at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy (DOE) Organization Act (Pub. L. No. 95–91), the Energy Information Administration is obliged to carry out "a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information which is relevant to energy resource reserves, energy production, demand, and technology, and related economic and statistical information or which is relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs."

The Commercial Buildings Energy Consumption Survey (CBECS) provides basic statistical information on the consumption of, and expenditures for, energy in U.S. commercial buildings, along with energy-related characteristics of these buildings. EIA conducts this multistage probability sample survey of U.S. commercial buildings and their energy suppliers on a triennial basis. Previous surveys were conducted in 1979, 1983, 1986, and 1989; the first three surveys were conducted as the "Nonresidential Buildings Energy Consumption Survey." The data from these surveys have been used by policymakers at the Federal, regional, State, and local levels, and by the private sector for benchmarking, forecasting, policy evaluation and planning.

The design of the 1992 CBECS is expected to yield estimates at the national and four Census region levels, based on approximately 6,000 completed interviews. The 1992 CBECS will be a longitudinal survey, in that it will use the same sample as was used for the 1986 CBECS with appropriate updates for new construction. Every effort will be made to locate the same buildings from the 1986 survey.

As in previous surveys, the 1992 CBECS will be conducted in two stages. In the first stage, information about buildings are collected in the Building Characteristics Survey through voluntary personal interviews with the owners, managers, or tenants of a sample of buildings located throughout the United States. As the conclusion of the interview, the building respondent is asked to sign an authorization form permitting the survey contractor to obtain energy consumption (billing) records from the suppliers of energy to the building. In the second stage, the Energy Suppliers Survey, data concerning the actual consumption and expenditures for energy are obtained from records maintained by energy suppliers to the building. This information is obtained by means of a mail survey conducted under EIA's mandatory data collection authority.

The interviews with the building owners/managers are planned for the late summer and fall of 1992. The initial mailings for the Energy Suppliers Survey will start in January 1993, and nonresponse followup procedures will continue through October 1993.

II. Current Actions

EIA proposes to make the changes listed below in the survey forms for the 1992 CBECS. These changes were identified through a user needs survey, a survey of the electricity and natural gas suppliers who responded to the 1989 CBECS, EIA observation of CBECS interviews, and debriefings with survey contractor personnel. These changes are being made to better serve the needs of data users, to streamline the administration and processing of the survey and to improve overall data quality.

Form EIA–871A—Building Characteristics Questionnaire and Authorization Form

A study of the needs of users for the 1992 CBECS was conducted by EIA from June through October 1991. As a result of that study, changes have been made to the Building Characteristics Questionnaire. CBECS users requested more information on functional areas within a building, e.g., is there a cafeteria or computer room within the office building? Also added, as a result of the user's study, were more questions on conservation measures, more information on lighting, more detail on the type of Demand-Side Management (DSM) programs that the building is participating in, and a question asking for an estimate of the number of personal computers (PC) and/or computer terminals present in the building. Since the 1992 CBECS is a longitudinal survey (revisiting the 1986 CBECS buildings), questions were added to ascertain whether the interviewer is at the same building, and if so, what changes have been made to the building since the 1986 interview. EIA is also considering asking some screening questions (currently section A in EIA–871A) via mail prior to the personal interview at the building. This would both lower respondent burden and save interviewer time.

Form EIA–871B, Facility Form

This form was used in the 1989 CBECS to better capture information at multibuilding facilities. The 1989 data has provided benchmark data which are still being analyzed. EIA proposes dropping this form from the 1992 CBECS and adding a few questions concerning facilities to the Building Characteristics Questionnaire (Form EIA–871A). A revised Facility Form is planned for reinstatement in future CBECS after detailed analysis of the 1989 facility data has been completed.

Energy Suppliers Survey Forms, Forms EIA–871 C Through F

The energy suppliers forms are essentially the same as those used on previous surveys. The forms will be mailed to suppliers of natural gas (Form EIA–871C), district heating and cooling (Form EIA–871D), electricity (Form EIA–871E), and fuel oil (Form EIA–871F). As a result of our experiences with the 1989

CBECS, instructions have been clarified and some questions have been modified to better obtain the requested data. EIA is aware of two developing areas of special interest in the suppliers' forms; demand-side management (DSM) programs and transportation gas. EIA is currently using DSM data from other EIA surveys to link to CBECS data to provide information on DSM programs in the commercial sector. EIA is reviewing these procedures to ascertain if any additional data need to be collected on the electricity and natural gas suppliers' forms. Form EIA-871C (Building Natural Gas Usage) has been changed to attempt to separate data on transportation gas (that is, gas bought directly from a producer or broker, and then delivered to the building by the local distribution company (LDC)) from gas bought from and delivered by the LDC. EIA is also exploring the possibility of allowing the energy suppliers to report the CBECS data directly on PC diskettes, rather than on the survey forms. About half of the natural gas and electricity suppliers responding to our request for comments after the 1989 CBECS have indicated that they would prefer to respond using PC diskettes. To facilitate suppliers' filings, EIA will also provide the survey contractor's facsimile (FAX) number for respondents' use. The suppliers would then have the option of reporting directly on the survey forms, either by mail or by FAX; providing PC diskettes in a specified format; or providing computer printouts containing the requested information.

Form EIA-871G, Construction Improvements and Maintenance and Repairs Supplement

This is a special supplement designed and collected for the U.S. Bureau of the Census at the end of the Building Characteristics Survey. It is planned that it will be administered again in the 1992 CBECS, with little change to the survey form. As in previous surveys, this form will be cleared through OMB by the Bureau of the Census.

Form EIA-871H, Asbestos in Buildings

This was a special section of the Form EIA-871A that was collected during the 1989 CBECS for the U.S. Environmental Protection Agency. This will not be repeated for the 1992 CBECS.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed revisions. The following general guidelines are provided to assist in the preparation of responses. Please indicate to which form(s) your comments apply.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for this collection is estimated to average 70 minutes per interview (Form EIA-871A) and 30 minutes per energy supplier response (Forms EIA-871C-G). How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the means of collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the information contained in the Commercial Buildings Energy Consumption Survey.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form; they also will become a matter of public record.

Statutory Authorities: Sections 5(a), 5(b), 13(b), and 52 of Public Law 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b) and 790a.

Issued in Washington, DC January 31, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 92-2926 Filed 2-5-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL92-10-000]

Consumer Advocate Division of the Public Service Commission of West Virginia, Maryland People's Counsel and Pennsylvania Office of Consumer Advocate versus Allegheny Generation Corporation; Shortening Period for Interventions, Protests and Answers

January 30, 1992.

On January 17, 1992, notice was issued of the filing made on December 31, 1991, in the above-docketed proceeding (57 FR 3194, January 28, 1992). Take notice that the period for filing interventions, protests and answers to the filing is shortened to and including February 10, 1992. The shortened period will enable the Commission to consider this proceeding with Allegheny Generation Corporation's filing in Docket No. ER92-242-000.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2914 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7722-000, California]

Enviro Hydro, Inc.; Availability of Environmental Assessment

January 31, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Long Canyon Creek Project, located on Long Canyon Creek within Eldorado National Forest, in Placer County near the towns of Placerville and Auburn, California, and has prepared an Environmental Assessment (EA) for the proposed project. The EA contains staff's analysis of the environmental impacts of the proposal and recommends the no action alternative.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2809 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10813-000, West Virginia]

City of Summersville, WV; Availability of Environmental Assessment

January 30, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for license for the Summersville Hydroelectric Project, located on the Gauley River in Nicholas County, West Virginia, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the environmental impacts of the project and has concluded that approval of the project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2810 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New License.

b. *Project No.:* 2113-022.

c. *Date Filed:* July 30, 1991.

d. *Applicant:* Wisconsin Valley Improvement Company.

e. *Name of Project:* Wisconsin Valley.

f. *Location:* On the Wisconsin River and its tributaries, Vilas, Oneida, Forest, Marathon, and Lincoln Counties, Wisconsin, and Gogebic County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Robert W. Gall, Wisconsin Valley Improvement Company, 2301 North Third Street, Wausau, WI 54401, (715) 848-2976.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of 21 separate existing dam and storage reservoir developments (none of which contain any hydropower facilities) located in the Wisconsin River Basin. Two of the developments are located on the main stem of the Wisconsin River; the remaining developments are located on tributary rivers and streams. The 21 project developments are described as follows:

Lac Vieux Desert Development

The Lac Vieux Desert Development is an improved natural-lake reservoir, located on the Wisconsin River main stem at river mile 420.1 in Vilas County, Wisconsin and Gogebic County, Michigan. The development consists of: (1) A reinforced concrete gated dam 27 feet long, 10 feet wide, and 8.5 feet high, with upstream and downstream wingwalls, each about 9 feet long; (2) one tainter gate in the dam, 12 feet wide and 4 feet high; (3) one stop log bay in the dam, 4 feet wide and 7 feet high; and (4) a reservoir with a surface area of 4,247 acres and gross storage of 2.140 million cubic feet (mcf) at the maximum water level of 1,681.53 feet NGVD. The reservoir has usable storage of 398 mcf with a drawdown of 2.17 feet.

Twin Lakes Development

The Twin Lakes Development is an improved natural-lake reservoir, located on the Twin River 2.1 miles upstream from Pioneer Lake in Vilas County, Wisconsin. Pioneer Lake feeds Pioneer Creek which flows for 9.9 miles to join the Wisconsin at river mile 401.1. The development consists of: (1) A reinforced concrete gated dam 21.5 feet long, 17 feet wide and 9.5 feet high, with upstream wingwalls about 6 feet long, and downstream wingwalls about 26 feet long; (2) one tainter gate in the dam, 10 feet wide and 4.33 feet high; (3) one stop log bay in the dam, 4 feet wide and 8 feet high; (4) a right abutment dike about 60 feet long and 10 feet high, and a left abutment dike about 75 feet long and 10 feet high; and (5) a reservoir with a surface area of 3,535 acres and gross storage of 4,074 mcf at the maximum water level of 1,682.57 feet NGVD. The reservoir has usable storage of 301 mcf with a drawdown of 2.00 feet.

Buckatahpon Development

The Buckatahpon Development is an improved natural-lake reservoir, located on Buckatahpon Creek 1.4 miles upstream from its confluence with the Wisconsin at river mile 398.9 in Vilas County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 15 feet long, 27 feet wide, and 7.5 feet high, with upstream and downstream wingwalls, each about 9 feet long; (2) one tainter gate in the dam, 6 feet wide and 3.83 feet high; (3) one stop log bay in the dam, 5 feet wide and 5 feet high; (4) a right abutment dike about 100 feet long and 7.4 feet high, and a left abutment dike about 60 feet long and 7.4 feet high; and (5) a reservoir with a surface area of 922 acres and gross storage of 597 mcf at the maximum water level of 1,641.52 feet NGVD. The reservoir has usable storage of 120 mcf with a drawdown of 3.17 feet.

Long-on-Deerskin Development

The Long-on-Deerskin Development is an improved natural-lake reservoir, located on the Deerskin River 18 miles upstream from its confluence with the Wisconsin at river mile 378.8 in Vilas County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 18 feet long, 15 feet wide, and 9.5 feet high, with upstream and downstream wingwalls, each about 9 feet long; (2) one tainter gate in the dam, 8 feet wide and 5 feet high; (3) one stop log bay in the dam, 4 feet wide and 7 feet high; (4) a right abutment dike about 35 feet long and 8.4 feet high, and a left abutment dike about 30 feet long and 8.4 feet high; and (5) a reservoir with a surface area of 2,353 acres and gross storage of 2,651 mcf at the maximum water level of 1,698.43 feet NGVD. The reservoir has usable storage of 255 mcf with a drawdown of 2.59 feet.

Little Deerskin Development

The Little Deerskin Development is an improved natural-lake reservoir, located on the Little Deerskin River 3 miles upstream from its confluence with the Deerskin River in Vilas County, Wisconsin. The development consists of: (1) A steel gated spillway structure 4 feet long, 6 wide, and 4 feet high, with upstream and downstream wingwalls, each about 4 feet long; (2) one 4-foot-wide by 2-foot-wide lift gate within the structure; (3) a right abutment dike about 40 feet long and 4 feet high, and a left abutment dike about the same size; (4) a reservoir with a surface area of 313 acres and gross storage of 82 mcf at the maximum water level of 1,642.16 feet NGVD. The reservoir has usable storage of 23 mcf with a drawdown of 1.67 feet.

Seven Mile Development

The Seven Mile Development is an improved natural-lake reservoir, located on Seven Mile Creek 2.6 miles upstream from the head of Nine Mile Reservoir in Oneida and Forest Counties, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 22 feet long, 30 feet wide, and 9.5 feet high, with downstream wingwalls about 16 feet

long; (2) one tainter gate in the dam, 8 feet wide and 4.83 feet high; (3) one stop log bay in the dam, 6 feet wide and 8 feet high; (4) a right abutment dike about 150 feet long and 9.7 feet high, and a left abutment dike about 110 feet long and 9.7 feet high; and (5) a reservoir with a surface area of 518 acres and gross storage of 417 mcf at the maximum water level of 1,650.14 feet NGVD. The reservoir has usable storage of 85 mcf with a drawdown of 4.33 feet.

Lower Nine Mile Development

The Lower Nine Mile Development is an improved natural-lake reservoir, located on Nine Mile Creek 1.1 miles upstream from the head of Burnt Rollways Reservoir in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 26 feet long, 30 feet wide, and 12 feet high, with upstream wingwalls about 16 feet long; (2) two tainter gates in the dam, each 6 feet wide and 6 feet high; (3) one stop log bay in the dam, 3.75 feet wide and 6 feet high; (4) a right abutment dike about 60 feet long and 12.9 feet high, and a left abutment dike about 100 feet long and 12.9 feet high; and (5) a reservoir with a surface area of 841 acres and gross storage of 114 mcf at the maximum water level of 1,643.76 feet NGVD. The reservoir has usable storage of 104 mcf with a drawdown of 4.58 feet.

Burnt Rollways Development

The Burnt Rollways Development is an improved multiple natural-lake and channel reservoir, located on the Eagle River near its confluence with the Wisconsin River in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 47 feet long, 55 feet wide, and 16 feet high, with upstream wingwalls about 20 feet long; (2) two dissimilar tainter gates in the dam, one 16 feet wide by 4.25 feet high, and a second 10 feet wide by 12 feet high; (3) a right abutment dike about 100 feet long and 14.4 feet high, and a left abutment dike about 150 feet long and 17.9 feet high; (4) a boat launching structure consisting of a trestle supported rail track about 165 feet long, mounted with an electrically operated rolling gantry hoist, over the right abutment dike; and (5) a reservoir with a surface area of 7,626 acres and gross storage of 4,525 mcf at the maximum normal water level of 1,625.71 feet NGVD. The reservoir has usable storage in summer of 479 mcf with a drawdown of 1.5 feet, and in winter, 852 mcf with a drawdown of 2.75 feet.

Sugar Camp Development

The Sugar Camp Development is an improved multiple natural-lake and channel reservoir, located on Sugar Camp Creek near its confluence with the Wisconsin River in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 12 feet long, 15 feet wide, and 9.5 feet high, with upstream and downstream wingwalls about 13 feet long; (2) one tainter gate in the dam, 8 feet wide by 7 feet high; (3) a right abutment dike about 260 feet long and 9.5 feet high, and a left abutment dike about 20 feet long and 9.5 feet high; and (4) a reservoir with a maximum surface area of 1,857 acres and gross storage of 1,120 mcf at the maximum winter water level of 1,597.82 feet NGVD. The reservoir has usable storage in summer of 155 mcf with a drawdown of 2.0 feet, and in winter, 411 mcf with a drawdown of 5.5 feet.

Little St. Germain Development

The Little St. Germain Development is an improved natural-lake reservoir, located on the Little St. Germain River about 1.1 miles upstream from its confluence with the Wisconsin River in Vilas County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 14 feet long, 15 feet wide, and 8.5 feet high, with upstream wingwalls about 10 feet long; (2) one vertical lift gate in the dam, 5 feet wide by 5.17 feet high; (3) a right abutment dike about 50 feet long and 7 feet high, and a left abutment dike about 40 feet long and 7 feet high; and (4) a reservoir with a surface area of 1,008 acres and gross storage of 495 mcf at the maximum water level of 1,613.88 NGVD. The reservoir has usable storage of 77 mcf with a drawdown of 1.83 feet.

Big St. Germain Development

The Big St. Germain Development is an improved natural-lake reservoir, located on the St. Germain River in Vilas County near St. Germain, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 27 feet long, 22 feet wide, and 7 feet high; (2) two similar vertical lift gates in the dam, each 7 feet wide by 4.17 feet high, and one smaller vertical lift gate in the dam, 5 feet wide by 4.17 feet high; (3) a right abutment dike about 55 feet long and 7 feet high, and a left abutment dike about 35 feet long and 7 feet high; (4) a reservoir with a surface area of 1,653 acres and gross storage of 1,501 mcf at the maximum water level of 1,591.16 feet NGVD. The reservoir has usable storage in summer of 94 mcf with a drawdown of 1.33 feet, and in winter, 210 mcf with a drawdown of 3.0 feet.

Pickerel Development

The Pickerel Development is an improved natural lake reservoir, located on the St. Germain River near its confluence with the Wisconsin River in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 32 feet long, 30 feet wide, and 20.5 feet high, called Pickerel Control Dam, with upstream and downstream wingwalls about 32 feet long; (2) one tainter gate in the dam, 10 feet wide by 16 feet high; (3) a right abutment dike about 70 feet long and 18.5 feet high, and a left abutment dike about 80 feet long and 18.5 feet high; (4) a second reinforced concrete gated dam 28 feet long, 37 feet wide, and 12 feet high, called Pickerel Canal Dam, with upstream and downstream wingwalls about 20 feet long; (5) one tainter gate in the dam, 22 feet wide by 3 feet high; (6) a reservoir with a surface area of 786 acres and gross storage of 315 mcf at the maximum water level of 1,590.34 feet NGVD. The reservoir has usable storage in summer of 33 mcf with a drawdown of 1.0 foot, and in winter, 227 mcf with a drawdown of 9.0 feet.

Rainbow Development

The Rainbow Development is a man-made reservoir, located on the Wisconsin River main stem at river mile 365.2 in Oneida County near Lake Tomahawk, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 128 feet long, 32 feet wide, and 38.5 feet high, with upstream wingwalls about 68 feet long, and downstream wingwalls about 55 feet long; (2) three tainter gates each 20 feet wide by 21 feet high, and two tainter gates each 10 feet wide by 28 feet high, all within the dam; (3) a right abutment dike about 1,000 feet long and 32 feet high; (4) Sawyer dike located about 3,000 feet east of the gated dam, about 800 feet long and 20 feet high; (5) Highway E dike located about 1,000 feet west of the spillway and joining the right abutment dike, about 1,650 feet long and 24 feet high; (6) Jim Hall dike located about 1.5 miles north of the spillway, about 1,550 feet long and 22 feet high; (7) Highway J dike located about 2.5 miles north of the dam, about 500 feet long and 3 feet high; (8) a reservoir with a surface area of 4,165 acres and gross storage of 2,004 mcf at the maximum water level of 1,597.05 feet NGVD. The reservoir has usable storage of 1,987 mcf with a drawdown of 22 feet.

North Pelican Development

The North Pelican Development is an improved natural-lake reservoir located on the north branch of the Pelican River in Oneida County near Rhinelander, Wisconsin. The development consists of: (1) A reinforced concrete gated

gravity dam 32 feet long, 29 feet wide, and 10.5 feet high, with upstream wingwalls about 16 feet long; (2) three vertical lift gates in the dam, each 6.5 feet wide by 4.0 feet high; (3) a right abutment dike about 30 feet long and 10.5 feet high, and a left abutment dike about 170 feet long and 10.5 feet high; (4) a reservoir with a surface area of 1,295 acres and gross storage of 379 mcf at the maximum water level of 1,569.60 feet NGVD. The reservoir has usable storage of 151 mcf with a drawdown of 3.0 feet.

South Pelican Development

The South Pelican Development is an improved natural-lake reservoir located on the main branch of the Pelican River in Oneida County near Pelican Lake, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 29 feet long, 24 feet wide, and 8 feet high, with upstream wingwalls about 10 feet long; (2) two vertical lift gates in the dam, each 5 feet wide by 3 feet high, and two stop log bays, each 5 feet wide by 1 foot high; (3) a right abutment dike about 20 feet long and 6 feet high, and a left abutment dike about 500 feet long and 6 feet high; (4) a reservoir with a surface area of 3,694 acres and gross storage of 2,175 mcf at the maximum water level of 1,591.98 feet NGVD. The reservoir has usable storage of 308 mcf with a drawdown of 2.0 feet.

Minocqua Development

The Minocqua Development is an improved natural-like reservoir, located at the headwaters of the Tomahawk River in Oneida County near Minocqua, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 35 feet long, 30 feet wide, and 8.75 feet high; (2) two tainter gates in the dam, each 8 feet wide by 4.5 feet high; (3) one overflow bay in the dam, 8 feet wide by a 4 feet high; (4) a right abutment dike about 100 feet long and 8 feet high, and a left abutment dike about 150 feet long and 8 feet high; (5) a reservoir with a surface area of 6,069 acres and gross storage of 7,243 mcf at the maximum water level of 1,585.05 feet NGVD. The reservoir has usable storage of 600 mcf with a drawdown of 2.77 feet.

Squirrel Development

The Squirrel Development is an improved natural-lake reservoir, located on the Squirrel River about 13.2 miles upstream from its confluence with the Tomahawk River in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 15 feet long, 21 feet wide, and 6.8 feet high, with upstream wingwalls about 10 feet long; (2) one vertical lift gate in the dam, 5 feet wide by 4.5 feet high; (3) one stop log bay in the dam, 5 feet wide by 4.5 feet high; (4) a left abutment dike about 65 feet long and 7.3 feet high; (5) a reservoir with a surface area of 1,505 acres and gross storage of 1,008 mcf at the maximum water level of 1,564.93 feet NGVD. The reservoir has usable storage of 149 mcf with a drawdown of 2.42 feet.

Willow Development

The Willow Development is a man-made reservoir, located on the Tomahawk River in Oneida County near Hazelhurst, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 72 feet long, 29 feet high, and 34.5 feet high, with upstream wingwalls about 33 feet long and downstream wingwalls about 50 feet long; (2) one central tainter gate in the dam, 20 feet wide by 12.5 feet high, and two flanking tainter gates in the dam, each 10 feet wide by 23.5 feet high; (3) a right abutment dike about 300 feet long and 30.5 feet high, and a left abutment dike about 700 feet long and 30.5 feet high; (4) Doberstein dike, located about 2,000 feet south of the gated dam, measuring about 1,400 feet in length and 18 feet in height; (5) the South dike, located about one mile south of the gated dam, measuring about 3,500 feet in length and 11 feet in height; and (6) a reservoir with a surface area of 6,392 acres and gross storage of 2,924 mcf at the maximum water level of 1,529.35 feet NGVD. The reservoir has usable storage of 2,809 mcf with a drawdown of 18.5 feet.

Rice Development

The Rice Development is a man-made reservoir, located on the Tomahawk River in Lincoln and Oneida Counties near Tomahawk, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 97 feet long, 34 feet wide, and 13 feet high, with upstream wingwalls about 32 feet long and downstream wingwalls about 42 feet long; (2) two tainter gates in the dam, each 20 feet wide by 15 feet high; (3) one timber needle bay in the dam, 20 feet wide by 17.7 feet high; (4) a right abutment dike about 900 feet long and 22 high, and a left abutment dike about 500 feet long and 22 feet high; (5) the West dike, located about 4,000 feet northwest of the gated dam; measuring about 1,550 in length and 10 feet in height; and (6) a reservoir with a surface area of 4,111 acres and gross storage of 1,922 mcf at the maximum water level of 1,463.25 feet NGVD. The reservoir has usable storage of 1,698 mcf with a drawdown of 13.25 feet.

Spirit Development

The Spirit Development is a man-made reservoir, located on the Spirit River near its confluence with the Wisconsin River at river mile 313.5 in Lincoln County near Tomahawk, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 60 feet long, 35 feet wide, and 26 feet high, with upstream wingwalls about 36 feet long and downstream wingwalls about 24 feet long; (2) two tainter gates in the dam, each 20 feet wide by 19 feet high; (3) a right abutment dike about 1,140 feet long and 26 feet high, and a left abutment dike about 1,330 feet long and 26 feet high; and (4) a reservoir with a surface area of 1,698 acres and gross storage of 672 mcf at the maximum water level of 1,437.68 feet NGVD. The reservoir has usable storage of 666 mcf with a drawdown of 17.0 feet.

Eau Pleine Development

The Eau Pleine Development is a man-made reservoir, located on the Big Eau Pleine River near its confluence with the Wisconsin River at river mile 237.6 in Marathon County near Mosinee, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 149 feet long, 30 feet wide, and 45 feet high, with upstream wingwalls about 90 feet long and downstream wingwalls about 54 feet long; (2) three tainter gates in the dam, each 26 feet wide by 15.5 feet high; (3) one sluice gate in the dam, 10 feet wide by 6 feet high; (4) a right abutment dike about 4,450 feet long and 45 feet high, and a left abutment dike about 4,000 feet long and 45 feet high; and (4) a reservoir with a surface area of 6,677 acres and gross storage of 4,275 mcf at the maximum water level of 1,145.43 feet NGVD. The reservoir has usable storage of 4,170 mcf with a drawdown of 27.43 feet.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant owns all existing project facilities.

1. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance

date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2811 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New Major License.

b. *Project No.:* 2255-003.

c. *Date Filed:* July 29, 1991.

d. *Applicant:* Nekoosa Papers Inc.

e. *Name of Project:* Centralia.

f. *Location:* On the Wisconsin River, Wood County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Richard J. Grund, Nekoosa Papers Inc., 100 Wisconsin River Drive, Port Edwards, WI 54469, (715) 887-5481.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) A 1,325.5-foot-long dam containing (a) a 340-foot-long cast-in-place gated spillway containing 13 steel tainter gates: 3 gates, 16 feet wide by 11 feet 9 inches high and 10 gates, 18 feet wide by 11 feet 8 inches high; (b) a 530-foot-long emergency overflow spillway with collapsible wooden flashboards approximately 3.5 feet high; (2) a reservoir with a surface area of 250 acres; (3) a 216 feet-3 inches wide and 78 feet-7 inches tall powerhouse; (4) a 3,200 kilowatt Allis Chalmers generator-turbine set; (5) an existing 2.4/14.4-kilovolt (kV) step-up transformer and a 2.5 mile 14.4-kV three phase over-head transmission line connecting to Port Edwards Mill Substation which ties to Wisconsin Power & Light Company's transmission line; and (6) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation would be 25.2 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2812 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 16, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* Minor License.

b. *Project No.:* 10871-001.

c. *Date Filed:* December 27, 1991.

d. *Applicant:* Robert A. Davis, III and Michael P. O'Brien.

e. *Name of Project:* Watson Mill.

f. *Location:* On South Fork Broad River in Oglethorpe County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Robert A. Davis, III, 390 Timber Laurel Lane, Lawrenceville, GA 30243, (404) 995-0891.

i. *FERC Contact:* Charles T. Raabe (tag) (202) 219-2811.

j. *Comment Date:* On or before February 25, 1992.

k. *Description of Project:* The proposed project would consist of: (1) An existing 8-foot-high, 250-foot-long stone and masonry dam having a 135-foot-long spillway; (2) a reservoir having a 5-acre surface area and a 9-acre-foot storage capacity at spillway crest elevation 514 feet msl; (3) an existing canal intake structure; (4) an existing 20-foot-wide, 8-foot-deep, 1140-foot-long canal; (5) an existing penstock intake structure; (6) a new 5-foot-diameter, 65-foot-long steel penstock; (7) a new steel powerhouse containing one 675-kW generating unit; (8) an existing 250-foot-long tailrace; (9) a new 300-foot-long underground 2.3-kV transmission line; (10) a new switchyard; and (11) appurtenant facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after the application is filed and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2813 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 16, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2394-006.

c. *Date Filed:* June 20, 1991.

d. *Applicant:* Wisconsin Electric Power Company.

e. *Name of Project:* Chalk Hill.

f. *Location:* On the Menominee River in Menominee County, Michigan, and Marinette County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Richard G. Fuller, 1401 South Carpenter Avenue, Iron Mountain, MI 49801, (906) 779-2484.

i. *FERC Contact:* Charles T. Raabe (202) 219-2811.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) A 300-foot-long concrete gravity spillway, which is about 24 feet high, has a crest elevation of 732.4 feet National Geodetic Vertical Datum (NGVD), and has: (a) 11 Taintor gates which are 12 feet high by 24 feet wide; and (b) an inoperable 6-foot-wide fish sluice located near the right end of the spillway; (2) an earthen dike 1,373 feet long and 38 feet high; (3) a reservoir with a surface area of 834 acres and a total volume of 6,757 acre-feet at the normal maximum elevation of 744.2 feet NGVD; (4) a powerhouse near the left bank, which is 133 feet long by 72 feet wide, and which has three turbine-generator units rated at 2,600 kilowatts (kW) each for a total installed capacity of 7,800 kW; (5) one substation located adjacent to the powerhouse; (6) the primary transmission line; and (7) appurtenant facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person

believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2814 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New Major License.

b. *Project No.:* 2292-001.

c. *Date Filed:* July 29, 1991.

d. *Applicant:* Nekoosa Papers Inc.

e. *Name of Project:* Nekoosa.

f. *Location:* On the Wisconsin River, Wood County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Richard J. Grund, Nekoosa Papers Inc., 100 Wisconsin River Drive, Port Edwards, WI 54469, (715) 887-5481.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) An existing dam with a total length of 1,075 feet which is comprised of (a) an uncontrolled overflow timber crib spillway which has a length of 638.2 feet, a height of about 21 feet, crest elevations of 942.01 and 942.41 feet mean sea level (msl), and which is surmounted by 4.1 foot-high flashboards; (b) a 12-foot-long nonoverflow section between the timber crib spillway and the gated spillway; (c) a gated spillway section which has a length of 110 feet and contains three 17.5-foot-high by 30-foot-wide taintor gates with a sill elevation of 930.11 feet msl; (d) a nonoverflow reinforced concrete/sheet pile wall section about 30 feet long located between the gated spillway and the powerhouse; (e) a 146-foot-long powerhouse; (f) a water-retaining wall or bulkhead located upstream of the paper mill which has a length of about 40 feet; and (g) nonoverflow abutment sections; (2) a reservoir with a normal pool elevation of 946.3 feet msl, a surface area of 400 acres, and a length of about 3 miles; (3) a 146-foot-long by 97.7-foot-wide powerhouse which contains seven flumes and five turbine/generating units—three are vertical Francis turbines and two are horizontal "camel-back" units—with a combined nameplate rating of 3,780 kilowatts (kW), an average head of 21.9 feet, and a total hydraulic capacity of 3,225 cubic feet per second (cfs); and (4) appurtenant facilities.

The project would have no switchyard, switchgear, or transmission line included in the project facilities. Additionally, the adjoining paper mill would not be a part of the project licensed facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation would be 27.3 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2815 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing with the Commission

a. *Type of Application:* New Major License.

b. *Project No.:* 2291-001.

c. *Date Filed:* July 29, 1991.

d. *Applicant:* Nekoosa Papers Inc.

e. *Name of Project:* Port Edwards.

f. *Location:* On the Wisconsin River, Wood County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Richard J. Grund, Nekoosa Papers Inc., 100 Wisconsin River Drive, Port Edwards, WI 54469, (715) 887-5481.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Comment Date:* On or before April 16, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) An existing dam with a total length of 1,215 feet which is comprised of (a) an uncontrolled overflow timber crib spillway which was a length of 524.6 feet, a height of about 16 feet, crest elevations of 960.06 and 960.49 feet mean seal level (msl), and which is surmounted by 3.3 foot-high flashboards; (b) a gated spillway section which has a length of 190 feet, and which contains three 17.5-foot-high by 30-foot-wide and two 14-foot-high by 20-feet-wide taintor gates which have sill elevations of 947.7 feet and 950.74 feet msl, respectively; (c) an emergency timber crib spillway capped with concrete which has a total length of 238.7 feet and crest elevations of 963.83 feet and 963.97 feet msl; (d) a timber crib guard lock section with a length of 184 feet located at the entrance of the forebay channel; and (e) nonoverflow abutment sections; (2) a reservoir with normal pool elevation of 963.3 feet msl, a surface area of 150 acres, and a length of about one mile; (3) a forebay channel that extends approximately one mile from the guard lock section of the dam to the powerhouse; (4) an exsting 166-foot by 129-foot powerhouse located at the end of the forebay channel and discharges into the Wisconsin River, and which contains eight flumes and five turbine/generator units—four are horizontal "camel-back" turbines and one is a vertical Francis unit—with a combined nameplate rating of 3,592 kilowatts (kW), an average head of 17.5 feet, and a total hydraulic capacity of 3,124 cubic feet per second (cfs); and (5) appurtenant facilities.

The project would have no switchyard, switchgear, or transmission line included in the project facilities. Additionally, the adjoining paper mill would not be a part of the project licensed facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation would be 19.7 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a

study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2816 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New Major License (> 5 MW).

b. *Project No.:* 2256-001.

c. *Date Filed:* July 26, 1991.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Wisconsin Rapids.

f. *Location:* On the Wisconsin River, Wood County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Kenneth K. Knapp, Consolidated Water Power Company, 231 First Avenue North, P.O. Box 8050, Wisconsin Rapids, WI 54495 (715) 422-3073.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. Comment Date: On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) a dam which has a total length of about 6,136 feet and is comprised of (a) an earth dike which has a length of 3,000 feet and a height of about 9 feet; (b) three sections of masonry gravity wall which have lengths of 1,024 feet, 138 feet, and 386 feet and a maximum height of about 20 feet; (c) three sections of concrete gravity wall which have lengths of 105 feet, 220 feet, and 450 feet and heights ranging from 22 to about 40 feet; (d) three gated spillways, one which has a length of 355 feet and contains ten 30-foot-wide by 15-foot-high Taintor gates, one which has a length of 252 feet and contains six 34-foot-wide by 13.75-foot-high Taintor gates, and one which has a length of 130 feet and contains three 30-foot-wide by 12.5-foot-high Taintor gates; and (e) a powerhouse with a length of 76 feet; (2) a reservoir with a surface area of about 455 acres, a storage capacity of about 4,660 acre-feet (AF), and a normal maximum water surface elevation of 1,011.3 feet mean sea level (msl); (3) a main powerhouse constructed of brick and steel with dimensions of 76.0 feet by 59.8 feet, equipped with two vertical shaft Francis turbine-generator units which have a total rated capacity of 4,680 kilowatts (kW), a combined maximum hydraulic capacity of 2,200 cubic feet per second (cfs), and a net head of 30 feet; (4) a second powerhouse located on the lower floor of a grinder building, which is integral with a masonry wall section of the dam and has dimensions of 184 feet by 57 feet, and which is equipped with eight horizontal Francis turbines, which have an aggregate hydraulic capacity of 2,400 cfs and a head of 30 feet, and which are connected to synchronous motors which have a total rated capacity of 4,430 kW; (5) a 220-foot-wide tailrace channel which is located immediately downstream of the powerhouse and grinder building; (6) a substation; and (7) appurtentant facilities.

The applicant is not proposing any changes to the existing project works as licensed. However, the Applicant is proposing to include the eight synchronous motors, which are connected to the eight horizontal turbines, as a part of the project. The Applicant estimates the average annual generation would be 53.6 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2817 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 21, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* Major License.

b. *Project No.:* 10749-001.

c. *Date Filed:* December 30, 1991.

d. *Applicant:* Iowa Hydropower Development Corporation.

e. *Name of Project:* Saylorville Dam.

f. *Location:* On the Des Moines River in Polk County, Iowa.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Justin Rundle, 3900 Crosby Drive, suite 1620, Lexington, KY 40515, (606) 271-4781.

i. *FERC Contact:* Charles T. Raabe (tag) (202) 219-2811.

j. *Comment Date:* On or before February 28, 1992.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Saylorville Dam and Reservoir and would consist of: (1) Six turbine-generators having a total installed capacity of 9,600-kW; (2) a turbine-generator unit storage and maintenance platform; (3) a crane; (4) a crane maintenance platform; (5) a mechanical platform; (6) a utility raceway; (7) a utility building; (8) a switchyard; (9) a 13.8-kV transmission line; and (10) appurtenant facilities.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after the application is filed and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2818 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New Major License.

b. *Project No.:* 2590-001.

c. *Date Filed:* June 26, 1991.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Wisconsin River Division.

f. *Location:* On the Wisconsin River, Portage County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Kenneth K. Knapp, Consolidated Water Power

Company, 231 First Avenue North, P.O. Box 8050, Wisconsin Rapids, WI 54495, (715) 422-3073.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) An existing dam which is comprised of (a) an earthfill dam with a length of 345 feet and a maximum height of about 20 feet, and (b) an earthen dike with a length of 550 feet and a maximum height of about 8 feet; (2) a spillway which is comprised of (a) a gated section 484 feet long containing 20 radial gates, each 17 feet high by 20 feet wide with a sill elevation of 1,053 feet national Geodetic Vertical Datum (NGVD) and (b) an uncontrolled overflow section with a length of 108 feet and a crest elevation of 1,069 feet NGVD; (3) a reservoir with a normal maximum water surface elevation of 1,069 feet NGVD, a surface area of 240 acres, and a total volume of about 1,120 acre-feet; (4) a powerhouse with maximum width of 24 feet and an approximate length of 70 feet which contains one horizontal-shaft hydroelectric turbine/generating unit with nameplate rating of 1,800 kilowatts (kW) and a hydraulic capacity of 1,265 cubic feet per second (cfs); (5) a grinder building with a width of 255 feet and a length of 49 feet, which is adjacent to the powerhouse and which contains nine operating horizontal-shaft hydromechanical turbines that have a combined equivalent capacity of 4,600 kW and a total hydraulic capacity of 3,855 cfs; and (6) appurtenant facilities. The project would have a total installed capacity of 6,400 kW. The project would have no switchyard, switchgear, or transmission line included in the project facilities.

Additionally, the grinders and motors attached to the hydromechanical turbines are not part of the project facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation would be 32.2 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2819 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-03355T Colorado-14 Addition]

State of Colorado; NGPA Determination by Jurisdictional Agency Designating Tight Formations

January 31, 1992.

Take notice that on January 27, 1992, the Oil and Gas Conservation Commission of the State of Colorado (Colorado), submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that two portions of the Dakota Formation underlying Garfield and Mesa Counties, Colorado, qualify as tight formations under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The area of application includes federal and State of Colorado lands as described in the attached appendix.

The notice of determination also contains Colorado's findings that the referenced portions of the Dakota Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

Appendix

Garfield County

Township 5 South

Range 95 West, 6th P.M.—Sections 1 thru 36 (Approximately 78% fee lands and 22% federal lands)

Range 96 West, 6th P.M.—Sections 1 thru 36 (Approximately 92% fee lands and 8% federal lands)

Township 6 South

Range 96 West, 6th P.M.—Sections 1 thru 36 (Approximately 86% fee lands and 14% federal lands)

Mesa County

Township 9 South

Range 92 West, 6th P.M.—Sections 4 thru 9, 16 thru 21, and 28 thru 33 (Approximately 4% fee lands and 96% federal lands)

Range 93 West, 6th P.M.—Sections 1 thru 36 (Approximately 67% fee lands and 33% federal lands)

Range 94 West, 6th P.M.—Sections 1 thru 36 (Approximately 56% fee lands and 44% federal lands)

Range 95 West, 6th P.M.—Sections 1 thru 36 (Approximately 64% fee lands and 36% federal lands)

Township 10 South

Range 93 West, 6th P.M.—Sections 1 thru 36 (Approximately 6% fee lands and 94% federal lands)

Range 94 West, 6th P.M.—Sections 1 thru 36 (Approximately 50% fee lands and 50% federal lands)

Range 95 West, 6th P.M.—Sections 1 thru 36 (Approximately 94% fee lands and 6% federal lands)

[FR Doc. 92-2820 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-03356T Colorado-22 Addition]

State of Colorado; NGPA Determination by Jurisdictional Agency Designating Tight Formation

January 30, 1992.

Take notice that on January 27, 1992, the Oil and Gas Conservation Commission of the State of Colorado (Colorado), submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Mesaverde Formation in Garfield County, Colorado, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The area of application includes federal and State of Colorado lands described as follows:

Township 5 South

Range 95 West, 6th P.M.—Sections 1 through 36 (Approximately 78 percent fee lands and 22 percent federal lands)

Range 96 West, 6th P.M.—Sections 1 through 36 (Approximately 92 percent fee lands and 8 percent federal lands).

The notice of determination also contains Colorado's findings that the referenced portion of the Mesaverde Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC

20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2827 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-03357T Utah-5 Amendment 2]

United States Department of the Interior, Bureau of Land Management; NGPA Determination by Jurisdictional Agency Denying Designation of Tight Formation

January 30, 1992.

Take notice that on January 24, 1992, the United States Department of the Interior's Bureau of Land Management (BLM) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Dakota Formation in a portion of Grand County, Utah, does not qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice of determination covers all of section 31 in T16S, R25E (SLM), in Grand County, Utah. On January 17, 1992, the Commission issued an order in Docket No. GP92-3-000, dismissing the Utah Department of Natural Resources' affirmative determination under FERC No. JD91-08284T (Utah-5 Amendment), that the Dakota Formation underlying Section 31, T16S, R25E (SLM) qualifies as a tight formation, since all of the lands involved are Federal Lands for which the BLM is the jurisdictional agency designated by the Commission's regulations implementing the NGPA.

The notice of determination contains the BLM's findings that this portion of the Dakota Formation does not meet the requirements for designation as a tight formation under the Commission's regulations set forth in 18 CFR part 271.

The notice of determination is available for inspection, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2822 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR92-8-000]

Arkansas Oklahoma Gas Corp.; Petition for Rate Approval

January 31, 1992.

Take notice that on January 13, 1992, Arkansas Oklahoma Gas Corporation (AOG) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.2793 per MMBtu plus an allowance of 2.766 percent for fuel for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

AOG states that it is a natural gas distribution company which owns and operates natural gas gathering, transmission and distribution systems in four Oklahoma and five Arkansas counties. AOG's petition states that it received an Order No. 63 blanket transportation certificate in Docket No. CP85-535-000. AOG is requesting approval of its existing maximum rate for transportation under its blanket which rate was established in Docket No. ST88-5876-000 (46 FERC ¶ 61,291).

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before February 20, 1992. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2823 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-59-003]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 31, 1992.

Take notice that Northern Natural Gas Company (Northern), on January 29, 1992, tendered for filing changes in its F.E.R.C. Gas Tariff, Third Revised Volume No. 1 (Volume No. 1 Tariff) and Original Volume No. 2 (Volume No. 2 Tariff).

On October 31, 1991, Northern filed an out-of-cycle PGA in Docket No. TQ92-3-59 proposing an effective date of November 1, 1991 (November PGA). On November 27, 1991, the Commission rejected the filing on the basis that Northern's gas cost adjustments were not based upon "known and measureable changes."

On January 21, 1992, the Commission granted Northern's request for rehearing and accepted Northern's supplement, wherein Northern clarified the information provided in its November PGA to demonstrate that the filing was in fact based upon "known and measurable" gas cost changes. The Commission directed Northern to refile the tariff sheets included in its November PGA as substitute tariff sheets within 10 days of the issuance of the January 21, 1992. Order, Therefore, Northern has submitted Tariff Sheets Sub One Hundred First Rev Sheet No. 4B, Sub Sixty-Ninth Revised No. 4B.1, Sub Twentieth Revised Sheet No. 4H, and Sub One Hundred Eighth Rev No. 1C in compliance with the Commission Order and shall be effective November 1, 1991.

Northern states that copies of the filing were served upon Northern's jurisdictional sales customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regualtory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commissin's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before February 7, 1992. 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. 92-2824 Filed 2-5-92; 8:45am]

BILLING CODE 6717-01-M

[Docket No. RP91-166-006]

Northwest Pipeline Corporation; Change in FERC Gas Tariff

January 31, 1992.

Take notice that on January 24, 1992, Northwest Pipeline Corporation (Northwest) tendered the following tariff

sheets for filing and acceptance to be a part of its FERC Gas Tariff, First Revised Volume No. 1-A

Eleventh Revised Sheet No. 201
First Revised Sheet No. 319
First Revised Sheet No. 320

Northwest states that the purpose of the filing was to revise tariff sheets to comply with Ordering Paragraph (B) of the "Order Approving Settlement * * *" issued by the Commission December 6, 1991 in the above-referenced docket.

Northwest has requested an effective date, as provided by the Settlement, of October 3, 1991 for the tendered sheets.

Northwest states that a copy of the filing is being served on all parties of record in this docket.

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 February 7, 1992. 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. 92-2825 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA90-19-000]

Southern Energy Co; Informal Settlement Conference

January 31, 1992.

Take notice that an informal settlement conference will be convened in this proceeding on Tuesday, February 11, 1992, 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-reference docket.

Any party, as defined in 18 385.102(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 Betsy Carr at (202) 208-1240.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2826 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-224-000, RP89-203-000, RP90-139-000, and RP91-69-000]

Southern Natural Gas Co.; Informal Settlement Conference

January 31, 1992.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, February 12, 1992, at 1 p.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.

Any party, as defined in 18 CFR 385.102(c) (1991), or any participant, as defined in 18 CFR 385.102(b) (1991), 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 (1991).

For additional information, contact Betsy R. Carr at (202) 208-1240 or James A. Pederson at (20) 208-2158.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2827 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-629-014]

Tennessee Gas Pipeline Co.; Compliance Filing

January 31,1992.

Take notice that on January 7, 1992, Tennessee Gas Pipeline Company (Tennessee) filed the following revised tariff sheets to be included in its FERC Gas Tariff, Third Revised Volume No. 1:

To be effective December 1, 1991: Substitute Third Revised Sheet No. 30
To be effective January 1, 1992: Fourth Revised Sheet No. 30

Tennessee states that the purpose of this filing is to respond to the Commission's letter order issued January 2, 1992, in the above-referenced docket. In addition to reflecting the initial rates required by the January 2 letter order, Substitute Third Revised Sheet No. 30 by footnote clarifies that the applicable surcharges will be assessed only once, regardless of the number of segments utilized. Fourth Revised Sheet No. 30, to be effective January 1, 1992, further reflects 1) the new GRI adjustment of $.0147 per dth pursuant to the Commission's Opinion No. 365 approving the GRI funding in Docket No. RP91-170, *et al.* issued on October 1, 1991, and 2) the new transition cost volumetric surcharge of $.0102 per dth pursuant to the Commission's order issued on December 30, 1991, in Docket No. RP92-52-000.

Tennessee states that copies of the filing has been served upon each person designated on the official service list compiled by the Secretary in the above-referenced docket.

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 February 7, 1992. 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. 92-2828 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-629-016]

Tennessee Gas Pipeline Co.; Tariff Filing

January 31, 1992.

Take notice that on January 23, 1992, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheets to be effective on January 25, 1992:

Third Revised Volume No. 1

Fifth Revised Sheet No. 30
Fourth Revised Sheet No. 160

Tennessee states that it is filing the enclosed tariff sheets pursuant to the Commission's orders issued on November 14, 1990 (Phase I Order) and October 9, 1991 (Phase II Order) in the above-referenced dockets, in order to implement transportation service to two additional shippers pursuant to Rate Schedule NET-LD, effective January 25, 1992. Tennessee requests that the Commission accept the filing and authorize the rates proposed, as the rates for service to the shippers receiving service under NET-LD Rate Schedule, as provided in the Phase II order.

Tennessee states that copies of the filing has been served upon such person designated on the official service list compiled by the Secretary in the above-referenced docket.

Any person desiring to protect 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 February 7, 1992. 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. 92-2829 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR92-9-000]

Three Rivers Pipeline Co.; Petition for Rate Approval

January 31, 1992.

Take notice that on January 28, 1992, Three Rivers Pipeline Company (Three Rivers) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.31 per MMBtu for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Three Rivers states that it is a general partnership operating an intrastate pipeline company within the State of Pennsylvania. Three River's partners are GEMCO Pipeline Inc., a wholly-owned subsidiary of GEMCO Gas Marketing, Inc. and Endevco Three Rivers Company, a wholly-owned subsidiary of Pentex Petroleum, Inc.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before February 20, 1992. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2830 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP91-126-000, CP91-1669-000, CP91-1670-000, CP91-1671-000, CP91-1672-000, CP91-1673-000]

United Gas Pipe Line Co. Technical Conference

January 31, 1992.

On October 22, 1991, the Commission issued an order approving with modifications United Gas Pipe Line's proposed settlement in this proceeding. The Settlement provides that United shall meet with the Commission staff and any other interested persons at a series of four public conferences to evaluate United's experimental Market Responsive Storage and Delivery Service (MRSDS) in Docket No. CP91-1671-000. The Settlement further provides that United shall file privileged and confidential reports with the Commission at least ten days prior to the conferences. United has filed the first of these reports.

Take notice that a public technical conference will be held on February 13, 1992, at 10 a.m. to discuss United's MRSDS. The conference will be held in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

The scope of this initial technical conference on United's MRSDS will be limited and will not involve discussion or evaluation of any privileged or confidential information submitted in United's initial report. The purpose of the conference is to determine which of United's customers are using the MRSDS, whether those customers are satisfied with the service, and whether the information submitted by United is responsive to the concerns of the Commission The conference will address appropriate procedures for future conferences where privileged and confidential information may be discussed.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2831 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-43-002]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 31, 1992.

Take notice that Williams Natural Gas Company (WNG) on January 27, 1992 tendered for filing Second Revised Sheet No. 233 to be included in its FERC Gas Tariff, First Revised Volume No. 1.

WNG states that Second Revised Sheet No. 233 is being filed in compliance with Commission Order (order) issued December 26, 1991 in Docket Nos. TA91-1-43-000, *et al.*

WNG states that copies of its filing were served on all jurisdictional 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 § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before February 7, 1992. 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. 92-2832 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4100-9]

Proposed Administrative Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act; Linemaster Switch Corp.; Woodstock, CT

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601. Notice is being published to inform the public of the proposed

settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA of Linemaster Switch Corporation for costs incurred by EPA in conducting response actions at the Linemaster Switch Corporation Superfund Site in Woodstock, Connecticut as of March 31, 1991.

DATES: Comments must be provided on or before March 9, 1992.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts 02203, and should refer to: In the Matter of Linemaster Switch Corporation Superfund Site, Woodstock, CT, U.S. EPA Docket No. I-91-1105.

FOR FURTHER INFORMATION CONTACT: Audrey Zucker, U.S. Environmental Protection Agency, Office of Regional Counsel, RCT, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 565-3444.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Linemaster Switch Corporation Site in Woodstock, CT. The settlement was approved by EPA Region I on January 27, 1992 subject to review by the public pursuant to this Notice. Linemaster Switch Corporation, the Settling Party, has executed a signature page committing them to participate in the settlement. Under the proposed settlement, the Settling Party is required to pay $375,000, plus interest, to the Hazardous Substances Superfund. EPA believes the settlement is fair and in the public interest.

EPA is entering into this agreement under the authority of section 122(h) of CERCLA. Section 122(h) of CERCLA provides EPA with authority to consider, compromise, and settle a claim under section 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. The U.S. Department of Justice approved this settlement in writing on November 29, 1991.

EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

A copy of the proposed administrative settlement may be obtained in person or by mail from Audrey Zucker, U.S. Environmental Protection Agency, Office of Regional Counsel, JFK Federal Building—RCT, Boston, Massachusetts 02203, (617) 565-3444.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts (U.S. EPA Docket No. I-91-1105).

Dated: January 27, 1992.

Julie Belaga,

Regional Administrator.

[FR Doc. 92-2919 Filed 2-5-92; 8:45 am]

BILLING CODE 6560-5-M

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 15]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, Eximbank has submitted a proposed collection of information in the form of a survey to the Office of Management and Budget. The recipients of the survey will be a random 10% sampling of those entities which have been previously contacted by the contractor by either personal contact or telephone.

PURPOSE: The survey is to provide Eximbank with information provided by small business, financial institutions, exporters and prospective exporters as to the effectiveness of the contractor sales and marketing call programs. The ultimate goal is to make the exporting community aware of and to utilize both private and U.S. Government (Eximbank) export credit insurance programs thereby having a positive effect on the U.S. balance of trade. The information provided will be compiled by Eximbank, analyzed and will be the basis of an annual evaluation of the contractor's effectiveness and performance toward meeting the above goal(s) in accordance with the terms and conditions of the underlying contract.

SUMMARY: The following summarizes the information collection proposal submitted to OMB.

(1) *Type of request:* New.
(2) *Number of forms submitted:* One.
(3) *Form Number:* EIB 92-1 (New).
(4) *Title of information collection:* Evaluation of Contractor Service.
(5) *Frequency of use:* Monthly.
(6) *Respondents:* Small business, financial institutions, exporters and potential exporters in the United States.
(7) *Estimated total number of annual responses:* 700.
(8) *Estimated total number of hours needed to fill out the form:* 59.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed application may be obtained from Helene H. Wall, Agency Clearance Officer, (202) 566-8111. Comments and questions should be directed to Lin Liu, Office of Management and Budget, Information and Regulatory Affairs, room 3235, New Executive Office Building, Washington, DC 20503, (202) 395-7340. All comments should be submitted within two weeks of this notice; if you intend to submit comments but are unable to meet this deadline, please advise by telephone that comments will be submitted late.

Dated: January 9, 1992.

Helene H. Wall,

Agency Clearance Officer.

[FR Doc. 92-2890 Filed 2-5-92; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

Agency Information Collection; Notice

January 31, 1992.

The following information collection requirements have been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, (44 U.S.C. 3507). For further information contact Judy Boley Federal Communications Commission, (202) 632-7513.

OMB No.: 3060-0110.
Title: Application for Renewal of License for Commercial and Noncommercial AM, FM, or TV Broadcast Station.
Form No.: FCC 303-S.

A revised application form FCC 303-S has been approved for use through 8/31/94. The May 1988 edition with the previous OMB expiration date of 5/31/91 will remain in use until revised forms are available.

OMB No.: 3060-0019.
Title: Application for Radio Station License or Modification Thereof Under Part 23.
Form No.: FCC 403.

A revised application for FCC 403 has been approved for use through 10/31/94. The April 1991 edition with the previous OMB expiration date of 10/31/93 will remain in use until revised forms are available.

OMB No.: 3060-0021.

Title: Civil Air Patrol Radio Station License.
Form No.: FCC 480

The approval on FCC 480 has been extended through 12/31/94. The March 1989 edition with the previous OMB expiration date of 12/31/91 will remain in use until updated forms are available.

OMB No.: 3060-0132.
Title: Supplemental Information 71-76 MHz Operational Fixed Station.
Form No.: FCC 1068-A.

The approval on FCC 1068-A has been extended through 12/31/94. The October 1984 edition with the previous OMB expiration date of 1/31/86 will remain in use until updated forms are available.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-2941 Filed 2-5-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Massachusetts Port Authority; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC. Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 560.6 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-200611.

Title: North Atlantic Conference of Port Authorities Agreement.

Parties: Massachusetts Port Authority, Port Authority of New York and New Jersey, South Jersey Port Corporation Delaware River Port Authority, Maryland Port Administration.

Filing Party: Hugh H. Welsh, Assistant General Counsel/New Jersey Solicitor, The Port Authority of NY & NJ, One World Trade Center, New York, New York 10048.

Synopsis: This Agreement, filed January 27, 1992 establishes a conference composed of various public port authorities in the North Atlantic Range. The conference's purpose is to allow the port authorities to meet, confer, discuss and exchange information on rates, charges, practices, etc. and to establish port terminal rates and charges and rules and regulations. Membership is open to other North Atlantic ports wishing to join.

Dated: January 31, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-2792 Filed 2-5-92; 8:45 am]

BILLING CODE 6730-01-M

Port Authority of New York et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 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.: 224-200610.

Title: Port Authority of New York & New Jersey/Italia Line Container Incentive Agreement.

Parties: Port Authority of New York & New Jersey/New Jersey ("Port") Italia Line.

Synopsis: This Agreement, filed January 24, 1992, provides for the Port to make payments to Italia Line in the amount of $25.00 per import container and $50.00 per export container with cargo loaded or unloaded from a vessel at a marine terminal in the Port. Each container must have been shipped by rail to or from points more than 260 miles from the port. The Agreement will terminate on December 31, 1992 or by notification by either party.

Dated: January 31, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-2793 Filed 2-5-92; 8:45 am]

BILLING CODE 6730-01-M

Notice of 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.: 224-200006-002.

Title: Port of Oakland/DSR/Senator Lines/Cho Yang Shipping Co. Terminal Agreement.

Parties: Port of Oakland ("Port"), DSR/Senator Lines, Cho Yang Shipping Company, Ltd.

Synopsis: This Agreement, filed January 27, 1992, provides for relocation of the premises assigned under the original agreement to the Charles P. Howard Terminal. The term of the agreement is extended to December 31, 1995 and certain compensation provisions are modified.

Agreement No.: 224-200612.

Title: Georgia Ports Authority/Gearbulk, Inc., Incentive Agreement.

Parties: Georgia Ports Authority, Gearbulk, Inc.

Synopsis: This Agreement, filed January 28, 1992, provides for a refund of $12,500 to Gearbulk if at least 12 vessels call per year at Brunswick, Georgia.

By Order of the Federal Maritime Commission.

Dated: February 3, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-2937 Filed 2-5-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Berkshire Financial Services, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 2, 1992.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Berkshire Financial Services, Inc., Lee, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Lee Bank, Lee, Massachusetts, which engages in Massachusetts Savings Bank Life Insurance activities.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Union Bancorp, Inc., Bowling Green, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Union Bank and Trust Company, Bowling Green, Virginia.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Lockhart Bankshares, Inc., Lockhart, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Lockhart Bankshares-Delaware, Inc., Wilmington, Delaware, and thereby indirectly acquire First-Lockhart National Bank, Lockhart, Texas. In connection with this application, Lockhart Bankshares-Delaware, Inc., Wilmington, Delaware, has applied to become a bank holding company by acquiring First-Lockhart National Bank, Lockhart, Texas.

Board of Governors of the Federal Reserve System, January 31, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2867 Filed 2-5-92; 8:45 am]

BILLING CODE 6210-01-F

U.S. Trust Corporation, New York, New York, Application to Engage in Securities Brokerage and Investment Advisory Activities Separately and on a Combined Basis, and to Buy and Sell Securities as a Riskless Principal

U.S. Trust Corporation, New York, New York ("Applicant"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), to acquire Delafield, Harvey, Tabell Inc., Princeton, New Jersey ("Company"), and thereby to engage in the following activities: (1) Providing portfolio investment advice and management to institutional and retail customers and furnishing general economic information and advice and general economic statistical forecasting services pursuant to § 225.25(b)(4) of the Board's Regulation Y; (2) providing retail brokerage services pursuant to § 225.25(b)(15) of Regulation Y; (3) providing investment advice and brokerage services on a combined basis for institutional and retail customers ("full-service brokerage"), including exercising limited investment discretion on behalf of institutional customers at a customer's specific request and within parameters established by the customer; and (4) purchasing and selling all types of securities on the order of institutional and retail customers as a "riskless principal." Company proposes to engage in these activities throughout the United States.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant believes that these proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto."

Applicant will conduct the proposed investment advisory activities subject to the conditions of § 225.25(b)(4) of Regulation Y (12 CFR 225.25(b)(4)), and the proposed retail brokerage services pursuant to the conditions of § 225.25(b)(15) of Regulation Y (12 CFR 225.25(b)(15)). Additionally, the Board has previously determined that, subject to certain conditions, full service brokerage activities are permissible nonbanking activities for bank holding companies and do not violate the Glass-Steagall Act. *See, e.g., PNC Financial Corp*, 75 Federal Reserve Bulletin 396 (1989); *Bank of New England Corporation*, 74 Federal Reserve Bulletin 700 (1988); *Manufacturers Hanover Corporation*, 73 Federal Reserve Bulletin 930 (1987); *National Westminster Bank PLC*, 72 Federal Reserve Bulletin 584 (1986). The Board has also approved, subject to certain conditions, the provision of discretionary investment management services to institutional customers in connection with securities brokerage and investment advisory services. *J.P. Morgan & Company, Inc.*, 73 Federal Reserve Bulletin 810 (1987). Applicant proposes that Company conduct these activities in accordance with all of the prudential limitations relied upon by the Board in these Orders.

In addition, the Board has previously approved the proposed buying and selling of all types of securities on the order of investors as "riskless principal." *See, e.g., J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990); *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989). Applicant commits that Company will conduct this proposed activity subject to the same limitations and using the same methods and procedures established by the Board in these orders.

Applicant states that the proposed activities will benefit the public. It believes that they will promote competition and provide gains in efficiency and added convenience to customers. Moreover, Applicant believes that the proposed activities will not result in any unsound banking practices.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than March 2, 1992. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying

specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, January 31, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2868 Filed 2-5-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18A, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisition to 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: 010692 AND 012492

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Kimball International, Inc., Harpers, Harpers	92-0430	01/06/92
Delta Air Lines, Inc., Pan Am Corporation, Pan American World Airways, Inc	92-0450	01/06/92
Thorn EMI plc, REMCO America, Inc., REMCO America, Inc	92-0454	01/06/92
Torchmark Corporation, Burlington Resources Inc., Meridian Oil Hydrocarbons, Inc	92-0367	01/07/92
Canadian Pacific Limited, Robertson-Ceco Corporation, Robertson-Ceco Corporation	92-0419	01/07/92
Intermet Corporation, Wind Point Partners II, L.P., PBM Industries, Inc	92-0312	01/08/92
Arkla, Inc., The Washington Water Power Company, Itron, Inc	92-0442	01/08/92
The Washington Water Power Company, Arkla, Inc., EnScan, Inc	92-0443	01/08/92
Aon Corporation, Markel Corporation, Markel Corporation	92-0461	01/08/92
First Financial Management Corporation, Wachovia Corporation, Provident Financial Corporation	92-0465	01/08/92
Redland PLC, Steetley plc, Steetley plc	92-0384	01/09/92
Warburg, Pincus Investors, L.P., Newfield Exploration Company, Newfield Exploration Company	92-0414	01/09/92
Ira Leon Rennert, The LTV Corporation, AM General Corporation and Amland Corporation	92-0470	01/10/92
Kessler Rehabilitation Corporation, Kennedy Health Care Foundation, Inc., Kennedy Memorial Hospitals at Saddle Brook, Inc.	92-0477	01/10/92
Newell Co., Sanford Corporation, Sanford Corporation	92-0417	01/13/92
Henry B. Pearsall, Newell Co., Newell Co	92-0418	01/13/92
CPC International Inc., Kellogg Company, Fearn International Inc	92-0433	01/13/92
The 1818 Fund, L.P., Western Gas Resources, Inc., Western Gas Resources, Inc	92-0436	01/13/92
Thames Water PLC, FBL Holdings Corp., FBL Holdings Corp	92-0476	01/13/92
A. Eugene Brockman Children's Trust, Ford Motor Company, Ford Motor Company	92-0432	01/14/92
Kenneth R. Thomson, The Mead Corporation, Micromedex, Inc	92-0440	01/14/92
MEDIQ Incorporated, ATI Medical, Inc., ATI Medical, Inc	92-0438	01/15/92
Yale University, Newfield Exploration Company, Newfield Exploration Company	92-0464	01/15/92
Fiat S.p.A., Pfizer Inc., Shiley Incorporated	92-0437	01/17/92
Horrigan American, Inc., General Electric Company, Reli Financial Corp	92-0459	01/17/92
SW Centrifugal, Inc., ASEA AB, CE Tube Mill, Inc	92-0468	01/17/92
SW Centrifugal, Inc., BBC Brown Boveri, Ltd., CE Tube Mill, Inc	92-0469	01/17/92
United Telecommunications, Inc., United Telecommunications, Inc., US Sprint Communications Company Limited Partnership	92-0479	01/17/92
FP Associates, L. P., Marlis S.A., Krames Communications, Inc	92-0482	01/17/92
The Dow Chemical Company, The Merchant Navy Officers Pension Fund, EOG (New Mexico) Inc	92-0485	01/21/92
George L. Argyos, American Cyanamid Company, Applied Solar Energy Corporation	92-0462	01/23/92
AB Investor, Forvaltnings AB Providentia, Forvaltnings AB Providentia	92-0481	01/23/92
Phoenix Mutual Life Insurance Company, Home Life Insurance Company, Home Life Insurance Company	92-0492	01/23/92
The Dow Chemical Company, Koch Industries, Inc., Koch Protective Treatments, Inc	92-0458	01/24/92
Automatic Data Processing, Inc., The Independent Election Corporation of America, The Independent Election Corporation of America	92-0497	01/24/92
Mercantile Stores Company, Maison Blanche, Inc., Maison Blanche, Inc	92-0524	01/24/92

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. 92-2866 Filed 2-5-92; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3363]

Dr. Scott M. Ross, d/b/a Mpls. Center for Cosmetic and Laser Surgery; 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, a Minneapolis cosmetic surgeon to disclose in certain 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: Complaint and Order issued January 9, 1992.[1]

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public

Continued

FOR FURTHER INFORMATION CONTACT: Richard Kelly, FTC/H-200, Washington, DC 20580. (202) 326-3304.

SUPPLEMENTARY INFORMATION: On Friday, November 1, 1991, there was published in the **Federal Register**, 56 FR 56228, a proposed consent agreement with analysis In the Matter of Dr. Scott M. Ross, d/b/a Mpls. Center for Cosmetic and Laser Surgery, 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. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 92-2865 Filed 2-5-92; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3364]

The Pinkerton Tobacco Company; 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 prohibits, among other things, the Virginia-based company from advertising any smokeless tobacco product on any broadcast medium, including television, in connection with the broadcast of any Pinkerton-sponsored event, and requires the respondent to distribute a copy of the order to each operating division, manager, officer, agent, or employee engaged in advertising or sponsorship activities, the production of sponsored events, or other sales materials.

DATED: Complaint and Order issued January 9, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Judy Wilkenfeld, FTC/S-4002, Washington, DC 20580, (202) 326-3150.

SUPPLEMENTARY INFORMATION: On Thursday, November 7, 1991, there was published in the **Federal Register**, 56 FR 57009, a proposed consent agreement with analysis In the Matter of The Pinkerton Tobacco Company, 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. Interprets or applies sec. 5, 38 Stat. 719, as amended; Pub. L. 99-252; 15 U.S.C. 45, 4401)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 92-2864 Filed 2-5-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Workshop on Health Assessments: Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: Workshop on Health Assessments.

Time and Date: 5 p.m.-9 p.m., March 1, 1992, 8 a.m.-4:30 p.m., March 2, 1992, 8 a.m.-2:30 p.m., March 3, 1992.

Place: Austin Marriott at the Capitol, 701 East 11th Street, Austin, Texas 78701.

Status: Open to the public for observation and participation, limited only by the space available. The meeting room accommodates approximately 100 people.

Matters to be Considered: The meeting will convene a group of interested parties to discuss the ATSDR Public Health Assessment process. The ATSDR Public Health Assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, develop health advisories or other recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects. The group will consider such areas as the Public Health Assessment definition and purpose, scope and limitations, initiation, roles of ATSDR staff, ATSDR-public interaction, steps and activities in a public health assessment, and possible follow-up health activities.

Oral comments will be scheduled at the discretion of the meeting facilitator and as time permits.

Contact Person For More Information: Chris Schmidt, Division of Health Assessment and Consultation, ATSDR (MS E32), 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639-0609 or FTS 236-0609.

Dated: January 31, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 92-2862 Filed 2-5-92; 8:45 am]

BILLING CODE 4160-70-M

Health Resources and Services Administration; Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

Council on Graduate Medical Education

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, room G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 619-0791. Copies may be obtained from: Marc L. Rico, M.D., Executive Secretary, Council on Graduate Medical Education, Health Resources and Services Administration, room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6190.

Dated: January 31, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 2943 Filed 2-5-92; 8:45 am]

BILLING CODE 4160-15-M

Health Resources and Services Administration; filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress

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Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[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.

Advisory Council on Nurses Education

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, room, G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 619-0791. Copies may be obtained from: Dr. Mary S. Hill, Executive Secretary, Advisory Council on Nurses Education, room 5C-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6193.

Dated: February 3, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92-2944 Filed 2-5-92; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Library of Medicine; Meeting of the Biomedical Library Review Committee

Pursuant to Public Law 92-463, notice is hereby given to the meeting of the Biomedical Library Review Committee on March 4-5, 1992, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on March 4 will be open to the public from 8:30 a.m. to approximately 11 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92-463, the meeting on March 4 will be closed to the public for the review, discussion, and evaluation of individual grant applications from 11 a.m. to approximately 5 p.m., and on March 5 from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Scientific Review Administrator, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301-496-4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2772 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of National Institute of Dental Research (NIDR) Special Grants Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the NIDR Special Grants Review Committee, National Institute of Dental Research, February 25-27, 1992, Montgomery I, Marriott Residence Inn, 7335 Wisconsin Avenue, Bethesda, Maryland. The meeting will be open to the public from 8:30 to 9 a.m. on February 25 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on February 25 from 9 a.m. to recess, on February 26 from 8:30 a.m. to recess and on February 27 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. William Gartland, Scientific Review Administrator, NIDR Special Grants Review Committee, NIH, Westwood Building, room 519, Bethesda, MD 20892, (telephone 301/496-7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 93.121, Dental Research Institute; National Institutes of Health.)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2773 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of the Cancer Center Support Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Center Support Review Committee, National Cancer Institute, on March 26-27, 1992, Hyatt Regency Bethesda, 1 Bethesda Metro Center, Bethesda, MD 20814.

This meeting will be open to the public on March 26 from 8 a.m. to 8:30 a.m., to review administrative details and other cancer center review issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on March 26 from approximately 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, the Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide a summary of the meeting and the roster of committee members, upon request.

Dr. David E. Maslow, Scientific Review Administrator, Cancer Center Support Review Committee, National Cancer Institute, Westwood Building, room 804, National Institutes of Health, Bethesda, Maryland 20892 (301/496-2330) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.197, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2774 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Meetings of Subcommittees B, C, and D of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee

Pursuant to Public Law 92-463, notice is hereby given of meetings of Subcommittees B, C, and D of the National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDKD).

These meetings will be open to the public to discusss administrative details at the beginning of the first session of the first day of the meetings. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion, and evaluation of individual research grant applications. Discussion of these applications could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winnie Martinez, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, room 9A19, Bethesda, Maryland 20892, 301-496-6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Scientific Review Administrators indicated.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommitte B.

Scientific Review Administrator: Francisco O. Calvo, Westwood Building, room 419, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301-496-7697.

Dates of Meeting: March 5-6, 1992.

Place of Meeting: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Open: March 5, 8 a.m.-9 a.m.

Closed: March 5, 9 a.m-recess, March 6, 8 a.m.-adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee C.

Scientific Review Administrator: Daniel Matsumoto, Westwood Building, room 404B, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301-496-8830.

Dates of Meeting: February 27-28, 1992.

Place of Meeting: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

Open: February 27, 8:30 a.m.-9 a.m..

Closed: February 27, 9 a.m.-recess, February 28, 8:30 a.m.-adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee D.

Scientific Review Administrator: Ann A. Hagan, Westwood Building, room 417A, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301-496-7841.

Date of Meeting: February 20-21, 1992.

Place of Meeting: Columbia Inn, Wincopin Circle, Columbia, Maryland 21044.

Open: February 20, 5 p.m.-5:15 p.m.

Closed: February 20, 5:15 p.m.-recess, February 21, 8 a.m.-adjournment.

(Catalog of Federal Domestic Assistance Program No. 93.847-849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2775 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of the Cancer Research Manpower Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, National Institutes of Health, February 25-28, 1992, The Saint James Hotel, 950 24th Street NW., Washington, DC 20037.

This meeting will be open to the public on February 25 from 7:30 p.m. to 8 p.m. to review administrative details and other cancer manpower review issues. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on February 25 from 8 p.m. to recess and on February 26 through 28 from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Mary Bell, Scientific Review Administrator, Cancer Research Manpower Review Committee, National Cancer Institute, Westwood Building, room 809, National Institutes of Health, Bethesda, Maryland 20892 (301/496-7978) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: January 27, 1992.

Susan Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2776 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Deafness and Other Communication Disorders; Meeting of the Communication Disorders Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Communication Disorders Review Committee on February 26-27, 1992. The Committee will meet at the Hyatt Regency-Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814. Notice of the meeting room will be posted in the hotel lobby.

The Committee meeting will be open to the public on February 26 from 8 a.m. until 8:30 a.m. to discuss administrative details relating to Committee business. Attendance by the public will be limited to space available.

The meeting of the Committee will be closed to the public on February 26 from 8:30 a.m. until recess and on February 27 from 8 a.m. until adjournment at approximately 2 p.m. in accordance with provision set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and section 10(d) of Public Law 92-463, for the

review, discussion, and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets of commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Committee meeting may be obtained from Dr. Marilyn Semmes, Scientific Review Administrator, National Institute on Deafness and Other Communication Disorders, room 400B Executive Plaza South, Bethesda, Maryland, 301-496-8683.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communicative Disorders)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2777 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Applications and Prevention Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Applications and prevention Advisory Committee, National Heart, Lung, and Blood Institute, National Institutes of Health, on February 25-26, 1992. The meeting will be held in Conference Room 10, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9 a.m. to recess on February 25 and 8:30 a.m. to adjournment of February 26 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesday, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. Lawrence Friedman, Acting Director, Division of Epidemiology and Clinical Applications, Federal Building, room 212, Bethesda, Maryland 20892, (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: January 29, 1992.

Susan K. Feldman,

Committee Management Officer, NIH

[FR Doc. 92-2778 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Arteriosclerosis, hypertension and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, February 20-21, 1992, Building 31, Conference Room 4, A-Wing, National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public from approximately 8:30 a.m. to recess on February 20, and 9 a.m. to adjournment on February 21, to evaluate program support in arteriosclerosis, hypertension and lipid metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Belicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4237, will provide a summary of the meeting and a roster of the committee members.

Dr. Basil M. Rifkind, Deputy Associate Director, Arteriosclerosis, Hypertension and lipid Metabolism Program, NHLBI, room 4A14, Federal Building, National Institutes of Health, Bethesda, MD 20892, (303) 496-1681, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: January 29, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2779 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the following study sections for February through March 1992, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each scientific review administrator, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the scientific review administrator to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	February-March 1992 meetings	Time	Location
AIDS & Related Research 1, Dr. Sami Mayyasi, Rm. A13, Tel. 301-496-0012	Mar. 25-26	8:00	Keystone Resort, Keystone, Co.
AIDS & Related Research 2, Dr. Gilbert Meier, Rm. A10, Tel. 301-496-5191	Feb. 28	8:00	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 3, Dr. Marcel Pons, Rm. A13, Tel. 301-496-7286	Feb. 25-27	8:30	Holiday Inn, Taos, NM.

Study section	February–March 1992 meetings	Time	Location
AIDS & Related Research 4, Dr. Mohindar Poonian, Rm. A10, Tel. 301–496–4666	Mar. 14–15	8:30	Casa Sirena Resort, Oxnard, CA.
AIDS & Related Research 5, Dr. Mohindar Poonian, Rm. A10, Tel. 301–496–4666	Mar. 6	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
AIDS & Related Research 6, Dr. Gilbert Meier, Rm. A10, Tel. 301–496–5191	Mar. 12	8:00	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 7, Dr. Gilbert Meier, Rm. A10, Tel. 301–496–5191	Mar. 6	8:30	Holiday Inn, Chevy Chase, MD.
Behavioral and Neurosciences-1, Dr. Luigi Giacometti, Rm. 303, Tel. 301–496–5352	Mar. 18–20	8:30	St. James Hotel, Washington, DC.
Behavioral and Neurosciences-2, Dr. Luigi Giacometti, Rm. 303, Tel. 301–496–5352	Mar. 12	8:30	St. James Hotel, Washington, DC.
Biological Sciences-1, Dr. James R. King, Rm. A22, Tel. 301–496–1067	Mar. 25–27	8:30	St. James Hotel, Washington, DC.
Biological Sciences-2, Dr. Syed Amir, Rm. 326, Tel. 301–496–3117	Mar. 16–18	8:30	Holiday Inn, Chevy Chase, MD.
Biological Sciences-3, Dr. Gene Headley, Rm. A27, Tel. 301–496–6724	Mar. 23–24	8:30	St. James Hotel, Washington, DC.
Biomedical Sciences, Dr. Charles Baker, Rm. 219, Tel. 301–496–7150	Mar. 23–25	8:30	Holiday Inn, Chevy Chase, MD.
Clinical Sciences-1, Mrs. Jo Pelham, Rm. 353, Tel. 301–496–7477	Mar. 12–13	8:30	Holiday Inn, Chevy Chase, MD.
Clinical Sciences-2, Mrs. Jo Pelham, Rm. 353, Tel. 301–496–7477	Mar. 26–27	8:00	Holiday Inn, Crowne Plaza, Rockville, MD.
Immunology, Virology & Pathology, Dr. Lynwood Jones, Rm. 20, Tel. 301–496–7510	Mar. 13–15	8:30	Balboa Bay Club, Irvine, CA.
International & Cooperative Projects, Dr. G.B. Warren, Rm. 222, Tel. 301–496–7600	Mar. 16–18	8:30	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Physiological Sciences, Dr. Nicholas Mazarella, Rm. 222, Tel. 301–496–1069	Mar. 19–20	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–2771 Filed 2–5–92; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Subcommittee of the National Vaccine Advisory Committee (NVAC); Public Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health (OASH) are announcing the forthcoming meeting of the NVAC Subcommittee on Access to Services.

DATES: Date, Time and Place: March 20, 1992, at 9:30 a.m., Parklawn Building, Conference Room C, Third Floor, 5600 Fishers Lane, Rockville, Maryland 20857. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to Kenneth J. Bart, M.D., M.P.H., Director and Executive Secretary, National Vaccine Advisory Committee, National Vaccine Program Office, 5600 Fishers Lane, Parklawn Building, room 13A–56, Rockville, Maryland 20857, (301) 443–0715.

Agenda: Open Public Hearing

Interested persons may formally present data, information, or views orally or in writing on issues pending before the Subcommittee or on any of the duties and responsibilities of the Subcommittee as described below. Because of limited seating, those desiring to make such presentations should make a request to the contact person before March 13, and submit a brief description of the information they wish to present to the Subcommittee. Those requests should include the names and addresses of proposed participants and an indication of the approximate time required to make their comments. A maximum of 10 minutes will be allowed for a given presentation. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the chairperson's discretion.

Open Subcommittee Discussion

The Subcommittee will discuss a draft report to be submitted to the full NVAC on April 21–22. It will focus on barriers to access with emphasis on the unmet needs related to third party payment. It will recommend measures to enhance public and private third party payment, if appropriate, as a mechanism to improve access to immunization. The agenda will be announced at the beginning of the meeting.

Persons interested in specific agenda items may ascertain from the contact person the approximate time of discussion. A list of Subcommittee members and the charter of the Advisory Committee will be available at the meeting. Those unable to attend the meeting may request this information from the contact person.

Dated: January 28, 1992.

Kenneth J. Bart,

Executive Secretary, NVAC.

[FR Doc. 92–2791 Filed 2–5–92; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-010-01-5101-09-C003: COC-52705]

Availability for a Natural Gas Pipeline Right-of-Way Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of an environmental assessment for a right-of-way to construct, operate, and maintain a 20-inch buried natural gas pipeline, and request for comments.

SUMMARY: Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Colorado Interstate Gas Company (CIG) has filed an application with the Bureau of Land Management for a right-of-way to construct, operate, and maintain a 20-inch buried, natural gas pipeline. This proposed pipeline, referred to as the Uinta Basin Lateral, would be approximately 223 miles long, crossing public, State, tribal, and private lands in Uinta County, Utah, Rio Blanco County, Colorado, Moffat County, Colorado, and Sweetwater County, Wyoming. It is the purpose of this notice to inform the public and other interested parties that the Bureau of Land Management (BLM) has completed an environmental assessment for this action, and is accepting comments on this environment analysis. This environmental assessment and its supportive documentation is available through the involved Bureau of Land Management offices and the Federal Energy Regulatory Commission.

DATES: Written comments will be accepted until march 9, 1992. No public meetings are presently planned.

ADDRESSES: Comments should be sent to the Project Manager, Bureau of Land Management, Post Office Box 928, Meeker, Colorado 81641.

FOR FURTHER INFORMATION CONTACT: Dan Martin, Project Manager (303) 878-3601, or FTS 581-5505.

SUPPLEMENTARY INFORMATION: The Uinta Basin Lateral Project is being proposed by CIG in order to connect natural gas supplies in the Natural Buttes area in Utah, and the Piceance Basin in Colorado with their existing Rock Springs to Denver Main Line, for delivery to markets in the midwest and east. The proposal is to construct, operate, and maintain a 20-inch, buried natural gas pipeline, from the vicinity of Bonanza, Utah, through western Colorado, and on to the vicinity of Wamsutter, Wyoming.

The proposed pipeline would be approximately 223 miles long, and would have a capacity of approximately 180 MMcf per day. Related facilities would include new and additional compression at two sites, four meter stations, and two communication sites. The proposed pipeline would parallel existing pipeline rights-of-way for approximately 85% of its length.

Construction would take approximately nine (9) months, and would tape place in multiple spreads or segments. All related activities would be performed in compliance with the mitigation measures contained or referenced in the environmental assessment and other applicable authorizing documents.

The right-of-way, which would have a width of 50 feet (with an average additional 10 feet for work space during construction), would be cleared, and the topsoil stripped and stockpiled for use in reclamation. Cut and fill techniques would only be utilized in rugged topography where steep side-slopes are encountered.

Ditching would generally be accomplished by using a mechanical trencher or a backhoe. However, some blasting may be necessary where surface or subsurface rock precludes other ditching methods. In these latter instances, precautions necessary for the protection of existing structures, facilities, and water supplies will be adhered to. After the ditch is prepared, the pipe will be positioned, welded, and placed in the trench following standard pipeline construction methods. The pipeline will be tested in accordance with Department of Transportation regulations.

After pipeline installation is completed, all work areas will be restored to as near their pre-construction condition as possible. The right-of-way will be waterbarred as necessary, and reseeded.

Several potential issues have been identified. These include threatened and endangered species of plants and animals, cultural resources, wildlife, steep unstable slopes, fragile soils, major river crossings (5) riparian areas, and alternatives.

Because most of the proposed pipeline route is on public land administered by the BLM, the BLM has been the lead Federal agency for preparation of the required environmental documentation under the National Environmental Policy Act. However, authorization will also be required from the Federal Energy Regulatory Commission, the Bureau of Indian Affairs, and the U.S. Army Corps of Engineers.

William J. Pulford,

District Manager, Craig District.

[FR Doc. 92-2913 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-JB-M

[AA-620-4110-02-24 1A]

Decision of the Secretary of the Interior Extending Reduction in Rental Rate for Oil and Gas Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision of the Secretary of the Interior extending rental rate reduction for all onshore oil and gas leases except those issued under the provisions of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, the Combined Hydrocarbon Leasing Act of 1981, and those reinstated under the provisions of the Federal Oil and Gas Royalty Management Act of 1982.

SUMMARY: The Secretary of the Interior is extending the rental rate reduction announced in the **Federal Register** on January 19, 1989 (vol. 54, no. 12), for onshore oil and gas leases in force issued prior to January 1, 1988. Exempted from the rental rate reduction are those leases issued under the provisions of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, Combined Hydrocarbon Leasing Act of 1981, and the Federal Oil and Gas Royalty Management Act of 1982.

EFFECTIVE DATE: March 1, 1992.

ADDRESSES: Inquiries or suggestions should be sent to: Director (620), Bureau of Land Management, room 510, LS Building, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gary W. Horton (202) 653-2182.

SUPPLEMENTARY INFORMATION: Effective March 1, 1989, the Secretary of the Interior reduced, to not greater than $1 per acre or fraction thereof per year, the rate of rental for all onshore oil and gas leases then in force. The reduction in the rental rate extends through February 29, 1992. Exempted from that reduction were those leases issued under the provisions of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, the Combined Hydrocarbon Act of 1981, and those leases reinstated under the provisions of the Federal Oil and Gas Royalty Management Act of 1982.

The Secretary of the Interior has announced a decision to continue this rental reduction through February 28, 1993 because in his judgment the

extension is necessary to promote development of Federal oil and gas resources. This action becomes effective March 1, 1992, and will continue through February 28, 1993, unless, after considering factors related to the rental rate such as the level of development of Federal leases, economic conditions in the oil industry including the price of oil, or the level of imports, the Secretary of the Interior decides to terminate the rental reduction at an earlier date. Any decision to terminate the rental reduction policy will be made only after lessees are given 3 months notice of the intended action. The reduction applies to all rental for all leases in effect on March 1, 1992, except those leases issued under the provisions of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, the Combined Hydrocarbon Act of 1981, and those reinstated under the provisions of the Federal Oil and Gas Royalty Management Act of 1982, regardless of the rate then applicable unless that rate already is less than $1 per acre per year.

This rental reduction is granted by the Secretary of the Interior under section 39 of the Mineral Leasing Act of 1920 (30 U.S.C. 209) which states in part: "The Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of coal, oil, gas, * * * and in the interest of conservation of natural resources, is authorized to waive, suspend, or reduce the rental * * * whenever in his judgment it is necessary to do so in order to promote development * * *."

The Department of the Interior granted, in 1986 and 1987, a rental reduction for all simultaneous leases whose annual rental rates would otherwise have increased by regulation from $1 to $3 per acre. The rental rates remained at $1 per acre. This policy was in response to an increase in oil and gas lease terminations and relinquishments. The Federal Government wished to encourage domestic exploration and development and allow more economical Federal oil and gas development. In order to enable developers to project more constant Federal oil and gas lease acquisition costs over a longer period of time and provide more stability to the industry, the annual rental rates for certain onshore Federal oil and gas leases was reduced in 1989 to $1 per acre beyond the initial lease year.

The economic conditions that precipitated the Secretary of the Interior to reduce the rental rates at that time are still prevalent today. The price for benchmark West crude recently was $18.50 per barrel and likely to drop as production in Kuwait increases and as Iraqi oil is allowed onto the world markets. In turn, this reduces the economic attractiveness of domestic exploration and recent operating drilling rig counts have declined to under 1,000 from over 10,000 during the boom times in the late 1970's and 1980's. The Secretary finds that raising the rental rates from their present level of $1 per acre will reduce the amount of acreage under lease and thereby diminish the likelihood that development of leases will occur. By extending the rental reduction for 1 more year, the Secretary of the Interior will be ensuring that the Federal leasing program itself is not a deterrent to exploration, but instead provides an incentive for development of oil and gas resources.

Dated: January 31, 1992.

Manuel Lujan, Jr.

Secretary of the Interior.

[FR Doc. 92-2932 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-84-M

[WY-040-02-4212-14; WYW105087]

Realty Action; Direct Sale of Public Lands; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale of public lands in Sweetwater County.

SUMMARY: The Bureau of Land Management has determined that the lands described below are suitable for public sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719:

Sixth Principal Meridian

T. 19 N., R. 105W.,
Sec. 2, E½NW¼SE¼SW¼, SW¼NE¼ SE¼SW¼.

The above lands aggregate 7.5 acres.

FOR FURTHER INFORMATION CONTACT: Sally Haverly, Realty Specialist, Bureau of Land Management, Green River Resource Area, 1993 Dewar Drive, Rock Springs, Wyoming 82901, 307-362-6422.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management proposes to sell the surface estate to Max Long pursuant to section 203 of the Federal Land Policy and Management Act of 1976.43 U.S.C. 1713 and 1719. The land is now under lease as a trade and manufacturing site. The site has been certified as free of hazardous materials. The Rock Springs Grazing Association has been given a two-year notification of the cancellation of grazing privileges. The proposed direct sale would be made at fair market value.

The proposed sale is consistent with the Big Sandy Management Framework Plan. Due to the difficulty in managing these lands, private ownership is believed to be in the best interests of the public. The planning document and environmental assessment covering the proposed sale will be available for review at the Bureau of Land Management, Green River Resource Area, Rock Springs, Wyoming.

Conveyance of the above public lands will be subject to:

1. Reservation of a right-of-way for ditches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945.
2. Highway right-of-way W026038.
3. Reservation of all minerals.

The public lands described above shall be segregated from all forms of appropriation under the public land laws, including the mining laws upon publication of this notice in the **Federal Register.** The segregative effect will end upon issuance of the patent or 270 days from the date of the publication, whichever comes first.

For a period of forty-five (45) days from the date of issuance of this notice, interested parties may submit comments to the Bureau of Land Management, District Manager, Rock Springs, P.O. Box 1869, Rock Springs, Wyoming 82902. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections this proposed realty action will become final.

January 29, 1992.

William W. LeBarron,

Area Manager.

[FR Doc. 92-2895 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-22-M

[ID-942-02-4730-12]

Filing of Plats of Survey: Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., January 28, 1992.

The plat representing the dependent resurvey of portions of the east and north boundaries, subdivisional lines and the subdivision of sections 1, 11, and 12, T. 9 N., R. 42 E., Bosie Meridian, Idaho, Group No. 815, was accepted, January 23, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706

Dated: January 28, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92-2893 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-GG-M

[CA-060-02-4214-08]

Review of Land Use Plan Determinations on Lands Proposed for Termination of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management is preparing a Category 3 Amendment to the California Desert Conservation Area (CDCA) Plan in accordance with the amendment procedures outlined in chapter 7 of the plan. The proposed amendment will address future land use of 469,890.89 acres of public land in Imperial, Riverside, and San Bernardino Counties for which existing Bureau of Reclamation withdrawals are being recommended for termination. The proposed amendment will review existing Multiple Use Class designations for these lands to ensure that they are adequate for guiding management of the lands and resources and will identify lands which warrant segregation from entry under the Mining Law of 1872.

DATES: Comments should be received by March 9, 1992.

ADDRESSES: Comments should be sent to Area Manager, El Centro Resource Area Office, 333 South Waterman Avenue, El Centro, California 92243-2298.

FOR FURTHER INFORMATION CONTACT: Thomas F. Zale, Multi-Resource Staff Chief, El Centro Resource Area Office, 619-325-5842.

SUPPLEMENTARY INFORMATION: During the first half of this century, several hundred thousand acres of public lands were withdrawn from entry under the general land laws including the Mining Law of 1872 for various Bureau of Reclamation projects. In 1978, the El Centro Resource Area assumed responsibility for the management of the majority of these lands under a supplement to an existing Memorandum of Agreement between the Bureau of Reclamation and the Bureau of Land Management. In 1980 these lands were assigned Multiple Use Class designations and the CDCA Plan multiple use class guidelines have since guided application of the general land laws to these withdrawn lands.

The CDCA was based on the assumption that the segregation of these lands from entry under the Mining Law would continue. Therefore, these lands were not allocated for locatable minerals activities. Furthermore, the Environmental Impact Statement prepared on the CDCA Plan was based on the assumption that there would be no impacts from mining due to the segregation then in effect.

A review of the Bureau of Reclamation withdrawals that segregated these lands was completed in January 1992. As the result, the Bureau is recommending that the withdrawals be terminated on 469,890.89 acres in the CDCA. The proposed amendment will review existing Multiple Use Class designations for these lands to ensure that they are adequate for guiding management of the lands and resources and will identify lands which warrant segregation from entry under the Mining Law of 1872.

The California Desert District Advisory Council's public meeting on February 20-22 will serve as a scoping meeting for the environmental document to be prepared on the proposed amendment. Further information and a list of affected lands may be obtained from the El Centro Resource Area Office.

Dated: January 31, 1992.

G. Ben Koski,

Area Manager.

[FR Doc. 92-2861 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT-764966

Applicant: Ronald Bartels, Schriever, LA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mr. E.V. Pringle, Bedford, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-765194

Applicant: Burnet Park Zoo, Syracuse, NY.

The applicant requests a permit to export blood and urine samples taken from captive-held Asian elephants (*Elephus maximus*) to Great Britain for analysis of estrogen and progesterone metabolites for enhancement of survival of the species.

PRT-765052

Applicant: L.A. Waters, Houston, TX.

The applicant requests a permit to purchase, in interstate commerce, three male and five female captive born Grevy's zebras (*Equus grevyi*) from the Rare Animal Survival Center, Inc., for captive breeding purposes.

PRT-765131

Applicant: San Diego Wild Animal Park, San Diego, CA.

The applicant requests a permit to import one male and one female captive hatched Oriental White Stork (*Ciconia ciconia boyciana*), from Tama Zoological Park, Tokyo, Japan, for captive breeding purposes.

PRT-765047

Applicant: William Wyatt, Redmond, OR.

The applicant requests a permit to import three male and two female captive hatched White-eared pheasants (*Crossoptilon crossoptilon*), from the South View Aviaries, Burnaby, B.C., Canada, for captive breeding purposes.

PRT-765141

Applicant: Henry McNatt, Lutz, FL 33549.

The applicant requests a permit to import a sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) from the captive herd of E.V. Pringle, Bedford, South Africa, for enhancement of survival of the species.

PRT-765048

Applicant: San Diego Zoological Society, San Diego, CA.

The applicant requests a permit to import 1 male and two female Barbary red deer (*Cervus elaphus barbarus*) that were captive born at Municipalite de Tunis, Parc Zoologique du Belvedere, Tunis, Tunisie, for captive breeding purposes.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of

such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281)

Dated: January 31, 1992.

Maggie Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92–2853 Filed 2–5–92; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Subsistence Resource Commission Meeting

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Gates of the Arctic National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Introduction of commission members and guests.

(2) Superintendent's welcome.

— Review of SRC function and purpose.

(3) Old business.

a. Review and approval of minutes.

b. Wiseman Resident Zone Boundary.

c. Hunting plan recommendations work session.

— Review recommendations and public comments.

— Prepare and approve recommendations for submission to Secretary and Governor.

(4) New business.

a. Federal subsistence program update.

b. Superintendent's Report.

— Update on ATV Agreement.

— Update on subsistence research program.

c. Public and other agency comments.

DATE: The meeting will begin at 9 a.m. on Tuesday, February 25, 1992, and conclude around 5 p.m. The meeting will reconvene at 9 a.m. on Wednesday, February 26 and conclude around 5 p.m.

LOCATION: The meeting will be held at the Regency Fairbanks Hotel, Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT: Roger Siglin, Superintendent, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456–0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

John M. Morehead,

Regional Director.

[FR Doc. 92–2936 Filed 2–5–92; 8:45 am]

BILLING CODE 4310–70–M

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting of National Park System Advisory Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. appendix, that a meeting of the National Park System Advisory Board will be held on February 26 and 27, 1992 at the Holiday Inn Crowne Plaza, 333 Poydras, New Orleans, Louisiana. The general business session will start at 8 a.m., Wednesday, February 26, continuing until about 5 p.m. The Board will reconvene at about 8 a.m. the next morning and conclude its meeting by about noon on Thursday, February 27.

Potential National Historic Landmarks will be discussed beginning at about 9 a.m. on February 26, along with the Service's recent study of World War II in the Aleutians focusing on Dutch Harbor Naval Operating Base, Alaska; the potential Selma to Montgomery National Historic Trail, Alabama; and several historic sites considered to be high priority candidates for study as potential additions to the National Park System. Board discussion during the afternoon of February 26 and the morning of February 27 will cover the Service's proposed revised regulations for the National Natural Landmarks Program; several areas with natural resources considered to be high priority candidates for study as potential additions to the National Park System; Board activities relating to the Outdoor Recreation and Education Initiatives of the Secretary of the Interior; urban park issues; the transition of the Presidio of San Francisco to administration by the National Park Service; National Heritage Corridors; the Columbus Quincentennial; and other topics. The Board will also be addressed by officials of the Department of the Interior and the National Park Service. The meeting will follow orientation tours and briefings in Jean Lafitte National Historical Park and Preserve.

The business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Anyone may file with the Board a written statement concerning matters to be discussed. The Chairman may also permit attendees to address the Board, but may restrict the length of presentations as necessary to allow the Board to complete its agenda within the allotted time.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Mr. David L. Jervis, Office of Policy, National Park Service, P.O. Box 37127, Washington, DC 20013–7127 (telephone 202–208–4030). More specific information on particular topics may be obtained from the following persons at the same P.O. box address:

National Historic Landmarks—Senior Historian Ben Levy, History Division (202–343–8164);

Selma to Montgomery Trail Study and Columbus Quincentennial—Chief Historian Edwin Bearss, History Division (202–343–8167);

Dutch Harbor and study areas for potential addition to the National Park System—Mr. Warren Brown, Park Planning and Protection Division (202–208–4385);

National Natural Landmark regulations—Dr. Anne Frondorf, Wildlife and Vegetation Division (202–343–8129); and

National Heritage Corridors—Ms. Peggy Lipson, Park Planning and Protection Division (202–208–4279).

Draft summary minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 1220, Main Interior Building, 18th and C Streets, NW., Washington, DC.

Herbert S. Cables, Jr.,

Deputy Director.

[FR Doc. 92–2860 Filed 2–5–92; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone

number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Paperwork Reduction Project (1029–0036), Washington, DC 20503, telephone 202–395–7340.

Title: Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan 30 CFR 780.

OMB Number: 1029–0036.

Abstract: Sections 507(b), 508(a) and 515(b) and (d) of Public Law 95–87 require applicants for surface mine permits to provide a description of each existing structure proposed to be used in the mining and reclamation operation and a compliance plan for structures proposed to be modified or constructed for use in the operation. This information is used by the regulatory authority in determining if the applicant can comply with the applicable performance and environmental standards.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Surface Coal Mining Operators.

Annual Responses: 7,487.

Annual Burden Hours: 203,949.

Average Burden Hours Per Response: 27.

Bureau Clearance Officer: Andrew DeVito (202) 343–5150.

January 13, 1992.

Andrew F. DeVito,

Acting Chief, Division of Technical Services.

[FR Doc. 92–2896 Filed 2–5–92; 8:45 am]

BILLING CODE 4310–05–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Committee to Review the Criminal Justice Act

AGENCY: Judicial Conference of the United States.

ACTION: Notice of public hearings.

SUMMARY: The Judicial Conference Committee to Review the Criminal Justice Act will hold public hearings to receive the views of all interested persons regarding the current effectiveness of the Criminal Justice Act. The Act provides for the appointment of counsel and other defense services to individuals who are unable to afford them in Federal criminal proceedings. The Committee's review will encompass all issues directly related to the structure and procedure for delivery of services, and the appointment and compensation of federal defenders and private panel attorneys. Based in part on these hearings, the Committee is expected to recommend legislative, procedural and operational changes which would enhance the quality of those services.

The hearings will be held in the following cities on the dates indicated, beginning at 10 a.m.:

Atlanta, Georgia—Friday, February 28, 1992

Chicago, Illinois—Friday, March 13, 1992

Boston, Massachusetts—Friday, March 27, 1992

Denver, Colorado—Friday, April 10, 1992

Any person or organization wishing to participate in these public hearings should call (202) 786–6625 or write the Committee to Review the Criminal Justice Act, Washington, DC 20544 for details as to the hearing schedule.

Dated: January 24, 1992.

William J. Lehman,

Special Assistant to the Deputy Director.

[FR Doc. 92–2734 Filed 2–5–92; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under the Clean Water Act

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on January 28, 1992, a proposed Consent Decree in *United States* v. *The Town of Buckeye, Arizona,* was lodged with the United States District Court for the District of Arizona. That action was brought pursuant to the Clean Water Act for violations by the Town of Buckeye of a permit issued pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1342, and for violations of an Administrative Order issued by the U.S. Environmental Protection Agency.

Pursuant to the Consent Decree, Buckeye has built a new wastewater treatment facility, and a dechlorination facility, and must meet the terms of its permit issued under the Clean Water Act. Buckeye will also pay a civil penalty of $25,000 for its violations of the Clean Water Act.

As provided in 28 CFR 50.7, the Department of Justice will receive comments from persons who are not named as parties to this action relating to the proposed Consent Decree for a period of thirty days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Town of Buckeye, Arizona,* D.J. Ref. 90–5–1–1–2394.

The proposed Consent Decree may be examined at the office of the United States Attorney, 230 North First Avenue, room 4000, Phoenix, Arizona 85025, and at the Region IX office of the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105. A copy of the proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Washington, DC 20004, (202) 347–2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $5.75 for a copy of the consent decree (25 cents per page reproduction costs) payable to "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 92–2898 Filed 2–5–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, and pursuant to section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(d)(2), notice is hereby given that the final proposed Consent Order and Stipulations in In re Bowling Industries, Inc., BK No. 89–9410, and In re David and Regina Bowling, BK No. 90–16091, was lodged with the United States Bankruptcy Court for the Northern District of Alabama on December 18, 1991. This action was brought by the United States Environmental Protection Agency pursuant to section 107 of CERCLA, 42 U.S.C. 9607.

Under the proposed Consent Order and Stipulations, the debtors, trustee, and remaining secured creditor agree to pay 80% of the net proceeds received from the sale of the Bowling Industries facility to the United States to reimburse the United States partially for environmental response actions taken at the Bowling Industries electroplating facility located Arab, Alabama. The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 30 days from the date of this publication.

Comments should be addressed to the Acting Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue NW., Washington, DC 20530. All comments should refer to *In re Bowling Industries, Inc.*, D.J. Ref. 90-11-2-702. The proposed Consent Decree may be examined at the offices of the United States Attorney, 200 Federal Building, 1800 Fifth Avenue North, Birmingham, Alabama 35203, the office of the U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, and the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Box 1097, Washington, DC 20004 (202-347-7829).

A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. Any request for a copy of the proposed Consent Decree should be accompanied by a check in the amount of $1.50 for copying costs ($0.25 per page for reproduction costs) payable to the "Consent Decree Library".

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-2899 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree United States v. Lindsay Manufacturing Company

In accordance with Departmental Policy, 28 CFR 50.7, and pursuant to section 122(d)(2)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(d)(2)(B), notice is hereby given that a Consent Decree in *United States* v. *Lindsay Manufacturing Company*, Civil Action No. 8:CV92-00015 (D.Neb.), was lodged with the United States District Court for the District of Nebraska on 01/09/92. This action was brought under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607. The Consent Decree provides that defendant Lindsay Manufacturing Company will clean up the Lindsay Manufacturing Company Superfund Site located in the Village of Lindsay, Platte County, Nebraska, approximately 75 miles northwest of Omaha, Nebraska, as required by the Record of Decision issued by the U.S. Environmental Protection Agency on September 28, 1990, and pay all past and future response costs incurred by the U.S. Environmental Protection Agency.

For thirty (30) days from the date of publication of this notice, the Department of Justice will receive written comments relating to the Consent Decree from persons who are not parties to the action. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Lindsay Manufacturing Company*, D.O.J. Ref. No. 90-11-2-682.

The Consent Decree may be examined at the Office of the United States Attorney, District of Nebraska, room 8000, United States Courthouse, 215 North 17th Street, Omaha, Nebraska 68101, and at the Region VII office of the U.S. Environmental Protection Agency, 726 Minnesota Ave., Kansas City, Kansas 66101.

A copy of the Consent Decree also may be examined at the Environmental Enforcement Section Document Center, 1521, 601 Pennsylvania Ave., NW., Washington, DC 20004. A copy of the Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center. The proposed Consent Decree package consists of an 83-page Consent Decree and 76 pages of Appendices. You may request a copy of the Consent Decree with or without appendices. Please specify in the request whether or not appendices are requested. A request for a copy of the proposed Consent Decree with appendices should be accompanied by a check in the amount of $39.75 (25 cents per page reproduction charge) payable to "Consent Decree Library." A request for a copy of the proposed Consent Decree without appendices should be accompanied by a check in the amount of $20.75 payable to "Consent Decree Library."

Roger B. Clegg,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-2897 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response Compensation and Liability Act

In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, 42 U.S.C. 9622(i)(1), as well as Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Alvin R. Lindsey et al.* (M.D. Fla.) Civ. No. 92-115-CIVT22C was lodged with the United States District Court for the Middle District of Florida on January 27, 1992. This agreement resolves a judicial enforcement action brought by the United States against the defendants pursuant to sections 106 and 107 of CERCLA, for the cleanup of the 62d Street Superfund Site ("the Site") located in Tampa, Hillsborough County, Florida, and for the recovery of costs expended by the United States in connection with the Site.

The United States entered into the Consent Decree with Alvin R. Lindsey and Marietta Brown, the current owners of the Site, and the owners at the time hazardous substances were disposed of at the Site. The United States also entered into the Consent Decree with Gulf Coast Recycling, Inc., Lafarge Corporation, Florida Steel Corporation, and David J. Joseph Company, who dumped wastes into the on-site pit.

The Consent Decree requires the defendants to implement the remedial action selected by the Environmental Protection Agency ("EPA") for the Site, be obligated for future costs, including oversight, and reimburse the United States for a portion of its response costs at the Site.

The Department of Justice will receive, for a period of (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Alvin R. Lindsey et al.* DOJ # 90-11-2-624.

The Decree may be examined at the offices of the United States Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, and at the offices of the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1535, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. The proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, 202-347-7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $13.25 (25 cents per page

reproduction costs) payable to Consent Decree Library.

Barry M. Hartman,

Acting, Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-2900 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 23, 1992 a proposed Consent Decree in *United States* v. *Westinghouse Electric Corporation et al.*, Civil Action No. IP-88-81C, was lodged with the United States District Court for the Southern District of Indiana. The proposed Consent Decree concerns the recovery of response costs incurred by the Environmental Protection Agency in connection with response activities carried out to clean up the Fell Iron and Scrapyard Site in Bloomington, Indiana. The proposed Consent Decree requires defendants Westinghouse Electric Corporation to pay the United States $887,598.90, in settlement of defendant's liability for past costs incurred by the United States in connection with the Fell Site. Westinghouse has also agreed to pay the United States' future costs that will be incurred in connection with that Site, subject to certain rights to challenge such future costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Westinghouse Electric Corporation, et al.*, D.J. Ref. 90-11-3-292.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Indiana, U.S. Courthouse, 5th Floor, 46 East Ohio St., Indianapolis, Indiana 46204, and at the Region V Office of the Environmental Protection Agency, 111 West Jackson Street, Chicago, Illinois 60604. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, 202/347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $7.00 (25 cents per page reproduction cost), payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-2901 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 28, 1992, a proposed Consent Decree in *United States* v. *Lionetti Oil Recovery, Inc.*, Civil No. 90-2286, was lodged with the United States District Court for the District of New Jersey. The proposed consent Decree settles the United States' claims that the defendants had violated various provisions of the Resource, Conservation and Recovery Act.

Under the terms of the Consent Decree the settling defendants will pay $75,000 in civil penalties and implement a sampling work plan.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Lionetti Oil Recovery, Inc.*, D.O.J. Ref. 90-7-492.

The proposed Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, N.Y., N.Y. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20044. (202) 347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.75 (25 cents per page reproduction cost) made payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-2902 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree

Notice is hereby given that a proposed Consent Decree in *United States* v. *Midwest Solvent Recovery, Inc.*, Civil Action No. H-79-556, was lodged on January 31, 1992 with the United States District Court for the Northern District of Indiana. This action consists of, *inter alia*, claims for cost recovery and enforcement of Unilateral Administrative Orders issued by the United States Environmental Protection Agency ("EPA") under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.*, in connection with the Midco I and Midco II Facilities in Gary, Indiana. The proposed Consent Decree requires, *inter alia*, (1) implementation of the remedial actions selected by EPA for the Midco I and Midco II Facilities as described in the Consent Decree, a Statement of Work, and proposed Amendments to EPA's Records of Decision for the Midco I and Midco II Facilities; (2) payment to the United States of more than $4.8 million in past response costs plus interest; and (3) payment by certain defendants of a civil fine of $400,000 for failing to comply with EPA's Administrative Orders. The Decree also resolves a counterclaim of certain defendants against the Department of Defense, U.S. Army, and U.S. Air Force. Under the Decree, certain defendants will also have an option to resolve natural resource damage claims of the United States Department of Interior and State of Indiana relating to the Midco I and Midco II Facilities.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Midwest Solvent Recovery, Inc.*, D.J. Ref. No. 90-7-1-1. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Indiana, 1001 Main Street, suite A, Dyer, Indiana 46311; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy,

if you would like a copy of the Decree with all signature pages and attachments, please enclose a check in the amount of $156.00 (25 cents per page for reproduction costs). In requesting a copy, if you would like a copy of the Decree without attachments and defendant and third party defendant signature pages, please enclose a check in the amount of $28.00 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 92-2903 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Albanoski, Broughton & Associates International; Denial of Applications

On October 24, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Albanoski, Broughton & Associates International, 124-H Blossom Hill Road, suite 556, San Jose, California 95123, proposing to deny its applications, executed on September 13, 1990 and November 20, 1990, for registration as a researcher under 21 U.S.C. 823(f). The Order to Show cause alleged that Respondent's registration would be inconsistent with the public interest as that term is defined in 21 U.S.C. 823(f).

The Order to Show Cause was sent to Albanoski, Broughton & Associates International by registered mail. More than thirty days have passed since the Order to Show Cause was received by Respondent, and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Albanoski, Broughton & Associates International is deemed to have waived its opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that Albanoski, Broughton & Associates International sought registration as a researcher in order to open a canine training facility as part of its security consultant firm. According to the applicant, such facility would then be used as a private detection service, allowing companies and private citizens to employ Albanoski, Broughton & Associates International to search out drugs in their homes or businesses, to assist corporations in upgrading security procedures, to educate existing private security forces in the identification of narcotics and to provide "high-tech alternatives" in the detection of controlled substances.

In reviewing the investigative file, the Administrator finds that there is insufficient information to establish that Mr. Albanoski or any of the other individuals identified in his research protocol have the educational background, training, knowledge or facilities to train dogs for narcotic detection. During an interview with DEA personnel, Mr. Albanoski admitted that no one in the firm has any experience using controlled substances to train narcotic detection dogs. The research protocol submitted in support of the application failed to comply with the requirements of 21 CFR 1301.33 and the background summaries presented to DEA did not include a complete and detailed description of relevant experience in handling controlled substances. Furthermore, the firm has made no commitment to obtain dogs from a kennel or trainer and has taken no steps to either lease kennel space or build its own.

The Administrator also finds that the San Mateo County Sheriff's Office, the Santa Clara County Sheriff's Office and the San Jose City Police Department has narcotics detection trained canines in sufficient numbers to service the needs of the law enforcement community, businesses and private citizens.

No evidence has been submitted on behalf of the applicant. Therefore, the Administrator concludes that Albanoski, Broughton & Assocaites International has failed to demonstrate a need for, or the ability to perform, the activity for which it sought registration to handle controlled substances. Based on the above, the Administrator concludes that Albanoski, Broughton & Associates International's registration would be inconsistent with the public interest and, therefore, the application for registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b), hereby orders that the applications for registration as a researcher submitted by Albanoski, Broughton & Associates International, be, and they hereby are denied. This order is effective February 6, 1992.

Dated: January 3, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-2805 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-09-M

Importer of Controlled Substances; Registration

By Notice dated July 8, 1991, and published in the **Federal Register** on July 16, 1991 (56 FR 32446), Research Biochemicals, Inc., One Strathmore Road, Natick, Massachusetts 01760, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Ibogaine (7260)	I
Tetrahydrocannabinols (7370)	I
Bufotenine (7433)	I
Dimethyltryptamine (7435)	I
Etorphine (Except HCL) (9056)	I
Methylphenidate (1724)	II
Etorphine Hydrochloride (9059)	II
Metazocine (9240)	II
Methadone (9250)	II
Fentanyl (9801)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as an importer of the basic classes of controlled substances listed above is granted.

Dated: January 29, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-2804 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

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 February 18, 1992.

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 February 18, 1992.

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 27th day of January 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
A.O. Smith Electrical Products Co (IBEW)	Upper Sandusky, OH	1/27/92	1/12/92	26,762	Fractional Horsepower Motors.
Amercable Wireline Division (Wkrs)	Houston, TX	1/27/92	1/14/92	26,763	Electric Armoured Cable.
Ashland Exploration (Wkrs)	Ashland, KY	1/27/92	1/13/92	26,764	Crude Oil.
Atlas Wireline Services (Co)	Midland, TX	1/27/92	1/13/92	26,765	Oil.
Brown Shoe Co ACTWU	Union, MO	1/27/92	1/13/92	26,766	Heels for Ladies Dress Shoes.
Brown Shoe Co ACTWU	Owensville, MO	1/27/92	1/13/92	26,767	Heels for Ladies Dress Shoes.
Brown Shoe Co ACTWU	Dexter, MO	1/27/92	1/13/92	26,768	Heels for Ladies Dress Shoes.
Celebrity Fashion, Inc. ILGWU	Union City, NJ	1/27/92	1/14/92	26,769	Rain Coats.
Coulson Heel (Co)	Hanover, PA	1/27/92	1/08/92	26,770	Shoe Heels.
Eastern Foundry Co (Co)	Boyertown, PA	1/27/92	1/13/92	26,771	Soil Fittings and Spun Pipe.
Exxon Co., USA (Wkrs)	Midland, TX	1/27/92	2/30/91	26,772	Oil Research.
Fiesta Apparel, Inc. ILGWU	Hoboken, NJ	1/27/92	1/14/92	26,773	Coats and Suits.
Halliburton Services (Alice Dist) (Wkrs)	Alice, TX	1/27/92	1/14/92	26,774	Oil Well Services.
Halliburton Services (Exec. Ofc.) (Wkrs)	Houston, TX	1/27/92	1/14/92	26,775	Oil Well Services.
Halliburton Services (Fresno Dist) (Wkrs)	Fresno, TX	1/27/92	1/14/92	26,776	Oil Well Services.
Halliburton Services ((Laredo Dist) (Wkrs)	Laredo, TX	1/27/92	1/14/92	26,777	Oil Well Services.
Halliburton Services (Luling Dist) (Wkrs)	Luling, TX	1/27/92	1/14/92	26,778	Oil Well Services.
Halliburton Services (Mission Dist) (Wkrs)	Mission, TX	1/27/92	1/14/92	26,779	Oil Well Services.
Halliburton Services (Victoria Dist) (Wkrs)	Victoria, TX	1/27/92	1/14/92	26,780	Oil Well Services.
Halliburton Services (Corpus Christi) (Wkrs)	Corpus Christi, TX	1/27/92	1/14/92	26,781	Oil Well Services.
Halliburton Services (Galveston Dist) (Wkrs)	Galveston, TX	1/27/92	1/14/92	26,782	Oil Well Services.
Halliburton Services (Pleasanton) (Wkrs)	Pleasanton, TX	1/27/92	1/14/92	26,783	Oil Well Services.
Hastings Manufacturing Co (UAW)	Hastings, MI	1/27/92	1/13/92	26,784	Auto Oil and Air Filters.
Masteller Coal Co. (Wkrs)	Keyser, WV	1/27/92	1/10/92	26,785	Metallurgical and Steam Coal.
Nanci Andrew (Wkrs)	Altoona, PA	1/27/92	1/16/92	26,786	Ladies Dresses, Pant Suits.
North Star Steel (Wkrs)	St. Paul, MN	1/27/92	1/02/92	26,787	Channel Iron.
Swift-Eckrich, Inc (UFCW)	Detroit Lakes, MN	1/27/92	1/10/92	26,788	Turkey Processing.
Swiss Industrial Abrasives (SIA) (Wkrs)	Alliance, OH	1/27/92	1/16/92	26,789	Abrasives.
TJ Designs (Wkrs)	Wewoka, OK	1/27/92	1/16/92	26,790	Ladies Warm-up suits.
Union Texas Petroleum Corp (Wkrs)	Houston, TX	1/27/92	11/22/91	26,791	Oil and Gas.
Wright Mfg. ILGWU	Union City, NJ	1/27/92	1/14/92	26,792	Knitwear.

[FR Doc. 92-2872 Filed 2-5-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,504]

Carbonaire, Inc., Palmerton, PA; Notice of Revised Determination on Reconsideration

On January 24, 1992, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of Carbonaire, Inc., Palmerton, Pennsylvania. This notice will soon be published in the **Federal Register.**

The company and the Teamsters Union, claim, among other things, that the Department's survey of Carbonaire's customers was inadequate.

Investigation findings show that all production at Palmerton ceased in September 1991 and most workers were laid off. Other findings show that U.S. imports of organic chemicals increased in 1991 compared to 1990.

On reconsideration, new information was obtained showing that Carbonaire's major customers had declining purchases of ammonia from Carbonaire in 1991 and increased purchases of imported ammonia in 1991 compared to 1990.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the Carbonaire workers at Palmerton, Pennsylvania were adversely affected by increased imports of articles like or directly competitive with the ammonia produced at Carbonaire in Palmerton, Pennsylvania. In accordance with the provisions of the Act, I make the following revised certification for the Carbonaire workers in Palmerton, Pennsylvania.

All workers of Carbonaire, Inc., in Palmerton, Pennsylvania who became totally or partially separated from employment on or after October 20, 1990 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this January 29, 1992.

Stephen A Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-2871 Filed 2-5-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,277, TA-W-26,277A]

The Monarch Machine Tool Co., Sidney, OH the Monarch Machine Tool Co., Cincinnati, OH; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 4, 1991, applicable to all workers of the subject firm. The notice was published in the **Federal Register** on December 27, 1991 (56 FR 67103, 67104).

At the request of the subject firm the Department reviewed the subject certification. New information shows that the engineering location in Cincinnati is an extension of the Sidney location. The Cincinnati location experienced reduced activity and worker separations in 1991 as a result of Sidney being adversely affected because of increased imports. Accordingly, the notice is amended by including the new location under TA-W-26,277.

The amended notice applicable to TA-W-26,277 is hereby issued as follows:

All workers of the Monarch Machine Tool Company, Monarch Sidney Division, Sidney, Ohio and Cincinnati, Ohio who became totally or partially separated from employment on or after September 3, 1990 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of January 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-2870 Filed 2-5-92; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act, Title IV, Section 451, Part D—National Level Multi-State Programming to Train and Employ the Disabled; Correction.

AGENCY: Employment and Training Administration, Labor.

ACTION: Correction.

SUMMARY: In notice document 92-2030 beginning on page 3220 in the issue of Tuesday, January 28, 1992, make the following corrections:

On page 3220 in the first column, the word "available" in the **DATES** section should be deleted and the sentence should read "The closing date for receipt of proposals will be March 13, 1992, 2 p.m. Eastern time.

On page 3220 in the second column, the reference referred to in the **ADDRESSES** section should be changed to read Reference SGA/DAA 92-001.

Dated: January 31, 1992.

Robert D. Parker,

ETA Grant Officer.

[FR Doc. 92-2873 Filed 2-5-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92-13]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Earth Science and Applications Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Earth Science and Applications Advisory Subcommittee.

DATES: February 10, 1992, 9 a.m. to 4:30 p.m.; and February 11, 1992, 9 a.m. to 4 p.m.

ADDRESSES: TRI-COR, The Capital Gallery, 600 Maryland Avenue, SW., suite 300, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Gregory W. Wilson, Code SE, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1707).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Earth Science and Applications Advisory Subcommittee (LESAAS) provides advice to the Earth Science and Applications Division concerning all of its programs in the Earth sciences. The Subcommittee will discuss the objectives of the ESAAS, the restructuring of the Earth Observing System (EOS), and the Earth Probe. The Subcommittee is chaired by Dr. Richard C.J. Somerville and is composed of 18 members. The meeting will be open to the public up to the capacity of the room (approximately 40 persons including Subcommittee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting

Open.

Agenda

Monday, February 10

9 a.m.—Opening Remarks.
9:15 a.m.—Overview of ESAAS and Objectives.
10 a.m.—Discussion on EOS Restructuring.
12:30 p.m.—Earth Probe Discussion and Presentation.
1:30 p.m.—Writing Assignments.
4:30 p.m.—Adjourn.

Tuesday, February 11

9 a.m.—Writing Groups and Discussion.
3 p.m.—Status of Meeting Objectives.
3:30 p.m.—Discussion and Planning for Next ESAAS Meeting.
4 p.m.—Adjourn.

Dated: January 31, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-2875 Filed 2-5-92; 8:45 am]

BILLING CODE 7510-01-M

[Notice 92-14]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Solar System Exploration Subcommittee.

DATES: February 20, 1992, 9 a.m. to 5 p.m.; and February 21, 1992, 9 a.m. to 12:30 p.m.

ADDRESSES: The Arnold and Mabel Beckman Center, 100 Academy Drive, Irvine, CA 92715.

FOR FURTHER INFORMATION CONTACT: Dr. Wesley Huntress, Code SL, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1588).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications

programs. The Solar System Exploration Subcommittee (SSES) provides advice to the Solar System Exploration Division concerning long-range planning in solar system exploration. The SSES will meet to discuss the Fiscal Year 1993 budget, the Research and Analysis report, and activities of the SSAAC and working groups. The Subcommittee is chaired by Dr. Jonathan Lunine and is composed of 25 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 people including members of the Subcommittee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting

Open.

Agenda

Thursday, February 20

9 a.m.—Opening Remarks.
9:10 a.m.—Fiscal Year 1993 NASA Budget and Implications.
10:45 a.m.—Discussion of Budget Issues.
2:30 p.m.—Instrument Development.
4 p.m.—Report on SSAAC Meeting.
5 p.m.—Adjourn.

Friday, February 21

9 a.m.—Discussion of the Research and Analysis Report.
11:15 a.m.—Mission Operations.
Noon—Discussion of Other Subcommittee Business.
12:30 p.m.—Adjourn.

Dated: January 31, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-2876 Filed 2-5-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Alan T. Waterman Award Committee; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Alan T. Waterman Award Committee

Date: Wednesday, March 4, 1992

Time: 9 a.m. to 5 p.m.

Place: room 543, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Mrs. Susan E. Fannoney, Executive Secretary, Alan T. Waterman Award Committee, National Science Foundation, Washington, DC 20550. Telephone: 202/357-7512.

Purpose of Committee: To provide advice and recommendations in the selection of the Alan T. Waterman Award recipient.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: The determination made on January 22, 1992 by the Director of the National Science Foundation pursuant to the provisions of section 10 (d) of Public Law 92-463.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2843 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Earth Sciences Proposal Review Panel; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Earth Sciences Proposal Review Panel.

Date and Time: March 2, 1992; 8 a.m. to 6 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 536, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. John Maccini, Program Director, Division of Earth Sciences, National Science Foundation, room 602, Washington, DC 20550. Telephone: (202) 357-7866.

Purpose of Meeting: To provide advice and recommendations concerning financial support for Geological Record of Global Change research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S. C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2842 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: March 2-4, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Brigham Young University, Provo, Utah 84602.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Advanced Combustion.

Contact: Dr. Christina Gabriel, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550, Telephone: 202-357-9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2837 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: March 3-5, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Ohio State University, Columbus, Ohio 43210-1271.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Net Shape Manufacturing.

Contact: Dr. Frederick Betz, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550, Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2838 Filed 2–5–92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: March 11–12, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Carnegie Mellon University, Schenley Park, Pennsylvania 15213.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Data Storage Systems.

Contact: Dr. Joseph Mathias, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550, Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2839 Filed 2–5–92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: March 9–10, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: University of Colorado, Boulder, Colorado 80309–0525.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Optoelectronic Computing Systems.

Contact: Dr. Christina Gabriel, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550. Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2840 Filed 2–5–92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: February 25–27, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Lehigh University, Bethlehem, Pennsylvania 18015.

Type of meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Advanced Technology for Large Structural Systems.

Contact: Dr. Frederick Betz, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550. Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2844 Filed 2–5–92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: February 24–25, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Montana State University, Bozeman, Montana 59717.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Interfacial Microbial Processes.

Contact: Dr. Tapan Mukherjee, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550, Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2845 Filed 2–5–92; 8:45 am]

BILLING CODE 7555-01-M

International Programs Review Panel; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: International Programs Review Panel.

Date and Time: February 24–25, 1992; 8:30 a.m.–5 p.m.

Place: 1110 Vermont Avenue, NW., room 500–A, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Janice Cassidy, Program Manager, 1110 Vermont Avenue, NW., room

501, Washington, DC 20550, Telephone: (202) 653-5862.

Purpose of Meeting: To provide advice and recommendations concerning applications submitted to NSF for financial support.

Agenda: Review and evaluate applications for the Summer Institute in Japan.

Reason for Closing: The applications being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b.(c) (4) and (6) the Government in the Sunshine Act.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2846 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Mathematical Sciences.

Date and Time: February 27-28, 1992; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 1243, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Alvin I. Thaler, Program Director, Division of Mathematical Sciences, 1800 G Street, NW., room 339, Washington, DC 20550, Telephone: (202) 357-3691.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate research proposals for the NSF Grants for Scientific Computing Research Environments for the Mathematical Sciences program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2836 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Mechanical and Structural Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mechanical and Structural Systems.

Date and Time: March 10, 1992—8:30 a.m. to 4 p.m.

Place: 1800 G Street, NW., room 1133, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Jorn Larsen-Basse, Program Director, National Science Foundation, room 1108, Washington, DC 20550 (202) 357-9542.

Purpose of Meeting: To provide oversight review of the Surface Engineering and Tribology Program.

Agenda: To carry out Committee of Visitors review including examination of decisions on proposals, reviewer comments, and other privileged materials.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If these discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act would improperly be disclosed.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2841 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Teacher Preparation and Enhancement; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meetings:

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Teacher Preparation and Enhancement.

Dates/Times and Locations:

February 11-12, 1992; 8:30 a.m. to 5 p.m., Piedmont, GA.

February 12-13, 1992; 8:30 a.m. to 5 p.m., New York, NY.

February 13-14, 1992; 8:30 a.m. to 5 P.m., Lexington, KY.

February 18-19, 1992; 8:30 a.m. to 5 p.m., Austin, TX.

February 20-21, 1992; 8:30 a.m. to 5 p.m., Salt Lake City, UT.

February 20-21, 1992; 8:30 a.m. to 5 p.m., New Mexico.

Type of Meeting: Closed.

Contact Person: Drs. Janice Earle and Pierce Hammond, Program Directors, National Science Foundation, 1800 G Street, NW., room 635-B, Washington, DC 20550, Telephone: (202) 357-7751.

Purpose of Meeting: To provide advice and recommendations concerning research proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Statewide Systemic Initiatives Program.

Reason for Late Notice: States were responsible for making meeting arrangements; we couldn't announce meetings until we knew locations.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2847 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-237, 50-249, 50-254, and 50-265]

Commonwealth Edison Co. Dresden and Quad Cities Nuclear Power Stations; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of 10 CFR part 50, appendix J to Commonwealth Edison Company (CECo, the licensee) for Dresden Nuclear Power Station (Units 1 and 2) located in Grundy County, Illinois, and Quad Cities Nuclear Power Station (Units 1 and 2) located in Rock Island County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an Exemption from certain requirements of appendix J to 10 CFR part 50 in response to the licensee's request of November 12, 1991. More specifically, the two-ply containment penetration expansion bellows can not meet certain Type B (local leak rate) testing requirements.

The Need for the Proposed Action

The design of the two-ply containment penetration expansion bellows is such that they can not be properly tested to

satisfy Type B testing requirements of 10 CFR part 50, appendix J.

Environmental Impacts of the Proposed Action

The proposed Exemption substitutes an alternative testing and replacement program for the Type B testing requirements of 10 CFR part 50, appendix J. The alternative testing program will detect bellows assemblies with significant flaws and result in replacement of flawed assemblies within one operating cycle, during which period there is reasonable assurance that the bellows assemblies will not suffer excessive degradation. Thus, this Exemption will not change the types, or allow an increase in the amounts, of effluents that may be released offsite. Nor would it result in an increase in individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed Exemption.

With regard to potential nonradiological impacts, the proposed Exemption involves features located entirely within restricted areas as defined by 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed Exemption.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement (construction permit and operating license) for Dresden Nuclear Power Station, Units 1 and 2, dated November 1973, and for Quad Cities Nuclear Power Station, Units 1 and 2, dated September 1972.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed Exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the Exemption would be to require rigid compliance with the requirements of appendix J to 10 CFR part 50. Such action would not enhance the protection of the environment and would result in unwarranted licensee expenditures of engineering and construction resources, as well as associated capital costs.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's design and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed Exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letter of November 12, 1991. This document is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60450, and at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Dated at Rockville, Maryland, this 30th day of January 1992.

For the Nuclear Regulatory Commission.

Richard J. Barrett,

Director, Project Directorate III-2, Division of Reactor Projects III/IV/V.

[FR Doc. 92-2915 Filed 2-5-92; 8:45 am]

BILLING CODE 7590-01-M

Organizational Conflicts of Interest; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will hold a public meeting to discuss its revised organizational Conflicts of Interest (COI) policy. A question and answer period will follow opening remarks and a discussion of the policy's provisions by NRC's contracting and legal staff.

DATES: The meeting will be held on March 26, 1992, from 9:30 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held in the Versailles I Room at the Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Timothy F. Hagan, Acting Director, Division of Contracts & Property Management, Office of Administration, (301) 492-4347 or William H. Foster, Chief, Policy Branch, Division of Contracts & Property Management, Office of Administration, (301) 492-7348.

SUPPLEMENTARY INFORMATION: On August 15, 1991, the Commission approved a revision to its COI policy. This revised policy will become a part of the NRC Acquisition Regulation (48 CFR chapter 20), when it is published in final form.

One major change from the provisions NRC policy was the limitation of COI restrictions to the relatively narrow scope and shorter duration of individual task orders rather than the entire scope and term of the basic contract. The purpose of this change in COI policy is to enhance NRC's ability to obtain knowledgeable, experienced scientists and engineers who are working daily in the real-life environment of the nuclear industry. The draft version of this rule was published in the **Federal Register** for public comment on October 2, 1989 (54 FR 40420).

Under the revised policy, NRC's right to disapprove work for others is limited to those instances in which NRC already has the contractor performing under a specific task order, or plans to do so. While the staff believes this revision will increase competition for NRC technical assistance and research work, additional restrictions were recommended to (a) avoid the potential for unfair competitive advantage that could result if NRC contractors were permitted to market their services while working for NRC at a licensee site, and (b) ensure NRC contractors do not have divided financial interests while working at a licensee site. Therefore, the Commission also approved the following provision:

> When the contractor performs work for the NRC under this contract at any NRC licensee or applicant site, the contractor shall neither solicit nor perform work at the site or work in the same technical area for that licensee or applicant organization for a period commencing with the award of the task order or beginning of work on the site (if not a task order contract) and ending one year after completion of all work under the associated task order, or last time at the site (if not a task order contract).

The NRC recognized that the above restriction may temporarily limit a firm's business activity with a licensee, but believes the protection of NRC from potential COI situations of this nature must be paramount. Further, the staff believes that, on balance, the revised policy relaxes the previous COI restrictions sufficiently to foster improved competition in the technical marketplace.

Recently, however, two of NRC's major technical assistance and research contractors have expressed the view that the above COI provision was overly

restrictive and would impede rather than enhance NRC's ability to increase competition in the technical assistance marketplace. Therefore, we invite all contractors and other interested parties to attend this meeting to provide their views on the practicality of complying with this COI provision or to provide alternatives that will achieve an equivalent level of COI protection.

Dated at Rockville, Maryland, this 27th day of January, 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 92-2916 Filed 2-5-92; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Commission Visit

January 31, 1992.

On February 6, 1992, Commissioner John W. Crutcher and William Ferguson, Assistant Director, Technical Analysis and Planning, will visit the A-1 SORT's facility in Miami, Florida. It is also possible, but not confirmed, that a visit will be made to an American Express, Inc. facility in the same area on February 7, 1992.

A report of these visits will be on file with the Commission Docket Room. For further information contact William Ferguson at (202) 789-6850.

Charles L. Clapp,

Secretary.

[FR Doc. 92-2806 Filed 2-5-92; 8:45 am]

BILLING CODE 7710-FW-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Request for Medicare Payment.

(2) *Form(s) submitted:* G-740B, G-740S, and HCFA-1500.

(3) *OMB Number:* 3220-0131.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households, Businesses or other for-profit.

(8) *Estimated annual number of respondents:* See justification (Item 13).

(9) *Total annual responses:* 1.

(10) *Average time per response:* See justification (Item 13).

(11) *Total annual reporting hours:* 1.

(12) *Collection description:* The Railroad Retirement Board (RRB) administers the Medicare program for persons covered by the railroad retirement system. The collection will obtain the information needed by The Travelers Insurance Company, the RRB's carrier, to pay claims for services and supplies covered under Part B of the program.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 92-2904 Filed 2-5-92; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30305; File No. SR-Amex-92-4]

Self-Regulatory Organizations; Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change by American Stock Exchange, Inc. Relating to a Pilot Program for Execution of Odd-Lot Market Orders

January 30, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 27, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for twelve months its existing pilot program under Amex Rule 205 requiring execution of odd-lot market orders at the prevailing Amex quote with no differential charged.[1] The Exchange received approval, on a pilot basis expiring on February 8, 1992, of amendments to Amex Rule 205.[2]

The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved, on a pilot basis, amendments to Exchange Rule 205 to require the execution of odd-lot market orders at the prevailing Amex quote with no odd-lot differential. These procedures were initially approved by the Commission on a pilot basis,[3] and were subsequently extended four times.[4]

[1] The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program, which will expire on February 8, 1992, to continue without interruption.

[2] See Securities Exchange Act Release No. 29922 (November 8, 1991), 56 FR 58409 (approving File No. SR-Amex-91-30).

[3] See Securities Exchange Act Release No. 26445 (January 10, 1989), 54 FR 2248 (approving File No. SR-Amex-88-23).

[4] See Securities Exchange Act Release Nos. 29922 (November 8, 1991), 56 FR 58409 (approving File No SR-Amex-91-30); 29186 (May 9, 1991), 56 FR 22488 (approving File No. SR-Amex-91-09); 28758 (January 10, 1991), 56 FR 1656 (approving File No. SR-Amex-90-39); and 27590 (January 5, 1990), 55 FR 1123 (approving File No. SR-Amex-89-31).

Under the pilot procedures, market orders with no qualifying notations are executed at the Amex quotation at the time the order is represented in the market either by being received at the trading post or through the Exchange's Post Execution Reporting ("PER") system. Enhancements to the PER system have been implemented to provide for the automatic execution of odd-lot market orders entered through PER. For purposes of the pilot program, limit orders that are immediately executable based on the Amex quote at the time the order is received at the trading post or through PER are executed in the same manner as market orders.

The Exchange proposes that the pilot program applicable to odd-lot execution procedures be extended for twelve months. This will provide the Commission with an additional period of time to assess procedures under the pilot program and will permit the Exchange to provide additional data and information regarding its experience under the pilot program as well as operation of the PER system enhancements.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of sections 6(b)(5) and 11A(a)(1) in particular in that it facilitates the economically efficient execution of odd-lot transactions, and is intended to result in improved execution of customer orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no 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 solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-92-4 and should be submitted by February 27, 1992

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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, with the requirements of Sections 6 [5] and 11A(a)(1) [6] of the Act and the rules and regulations thereunder. The Commission believes that the revised procedures, which provided for pricing of odd-lot market orders at the prevailing market quote rather than a subsequent transaction, should provide investors with more timely execution of these orders. Moreover, these orders should receive less costly executions than under the former procedures because no differential will be charged. In addition, the Exchange has implemented enhancements to its PER system to provide for the automatic execution of odd-lot market orders, as set forth in the Commission's 1989 approval order.[7]

In its previous orders,[8] the Commission asked the Amex to analyze the difference in executions between using the Intermarket Trading System ("ITS") best bid or offer as compared with the Amex quote without the differential. Specifically, the Commission expressed interest in whether customers are receiving a better execution, both in terms of price and time, using the new Amex system. The Commission was also interested in the feasibility of implementing an odd-lot pricing system using the ITS best bid or offer and no differential.

In response, the Amex submitted the requested information with respect to the difference in executions between the ITS best bid or offer and the Amex quote to the Commission on January 9, 1991, April 22, 1991 and October 25, 1991.[9] The Amex data indicated that the pilot procedures provide a superior execution for a substantial majority of odd-lot executions. Accordingly, the Commission believes that it is reasonable to extend the pilot program for an additional twelve months to enable the Commission to fully review the Amex reports and to enable the pilot to continue without interruption during the Commission's review. The Commission, however, remains concerned that some odd-lot orders could receive executions at less than the best available price since the Exchange's pricing formula does not include quotations from other markets.[10] Nevertheless, due to the low number of odd-lot market orders,[11] the small percentage of Amex quotes that are worse than the ITS best bid or offer, and the benefits to customers under the pilot program procedures, the Commission believes that it is acceptable to continue the pilot's current pricing procedures for an additional twelve months. However, the Commission remains interested in the feasibility of implementing an odd-lot pricing system using the ITS best bid or offer and no differential.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission.[12]

It is Therefore Ordered, Pursuant to section 19(b)(2) [13] of the Act, that the proposed rule change (SR-Amex-92-4) is approved for a twelve month period ending on February 8, 1993.

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[5] 15 U.S.C. 78f (1988).

[6] 15 U.S.C. 78k-1(a)(1) (1988).

[7] See supra note 3 for a description of the Exchange's odd-lot procedures and the Commission's rationale for approving those procedures on a pilot basis. The discussion in the aforementioned order is incorporated by reference into this order

[8] See supra note 4.

[9] See letters from Jules L. Winters, Executive Vice President, Operations, Amex, to Howard L. Kramer, Assistant Director, Commission, dated January 8, 1991, April 19, 1991 and October 23, 1991.

[10] The Commission has approved amendments to the New York Stock Exchange's ("NYSE") rules which incorporate the ITS quote into the NYSE odd-lot pricing procedures through the use of the "Best Pricing Quote." See Securities Exchange Act Release No. 17981 (May 2, 1990), 55 FR 19409 (May 9, 1990).

[11] See footnote 9 of Securities Exchange Act Release No. 29922 (November 8, 1991), 56 FR 58409.

[12] No comments were received in connection with the proposed rule change which implemented these procedures. See *supra* note 3.

[13] 15 U.S.C. 78s(b)(2) (1988).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2799 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30324; File No. SR-CBOE-91-51]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Listing Options on the CBOE Biotech Index

January 31, 1992.

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 the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), on December 30, 1992, filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE requests approval to list and trade index options on the CBOE Biotech Index (the "Index"). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

[14] 17 CFR 200.30-3(a)(12) (1991).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

General

Pursuant to Exchange Rule 24.2, the CBOE proposes to list and trade cash-settled, European-style stock index options on an industry index, the CBOE Biotech Index.

The Index represents a segment of the U.S. equity market that currently is not represented in the derivative markets. The Exchange believes that the Index will provide a performance measure and evaluation guide for passively or actively managed biotechnology funds. Additionally, the Exchange believes that, considering the recent high volatility of the biotechnology sector, CBOE Biotech options could provide an effective means for hedging the risks associated with the ownership of biotechnology stocks, and a lower cost means of altering the composition of a broad-based equity portfolio.

Index Description

Design

The CBOE BioTech Index is based on 20 stocks in the biotechnology sector that trade on the American Stock Exchange ("AMEX") and the National Association of Securities Dealers Automated Quotation ("NASDAQ") system. Currently, 18 of the stocks trade on NASDAQ/NMS and the remaining 2 are listed on the AMEX. The Index is price-weighted and is designed to represent medium and small-capitalization biotech stocks. The Index will be calculated real time using last sales prices and was set to a value of 100 on January 2, 1991.

The Index is composed of stocks that on October 31, 1991, ranged in capitalization from $166 million to $2.2 billion. The median capitalization on October 31, 1991 was $590 million. The prices of the stocks ranged from $8.75 to $77.50, with the highest priced (and highest weighted) stock accounting for 10.82% of the Index and the lowest priced (and lowest weighted) stock accounting for 1.22% of the Index. The securities underlying the Index are chosen to be representative of the biotechnology sector. Capitalization, liquidity, volatility and name recognition are additional factors used to determine the Index's component securities.

Calculation

The Index will be calculated continuously and disseminated every 15 seconds by the CBOE or a designated agent of the CBOE, based on the last-sale prices of the component stocks. If a component stock is closed, the most recently traded price is used in the index calculation. Similar to the Dow Jones Industrial Average, the Index is price-weighted and reflects changes in the prices of the component stocks relative to the base date. The Index value is calculated by adding the prices of the component stocks and then dividing this summation by a divisor that is equal to the number of stocks in the index (20) to get the average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the component securities as well as changes in the composition of the Index. Changes which may result in divisor changes include, but are not limited to, stock splits and dividends, spin-offs, certain rights issuances, and mergers and acquisitions.

Maintenance

The CBOE BioTech Index will be maintained by the CBOE. CBOE may change the composition of the Index at any time or from time to time to reflect the conditions in the biotechnology sector. At any time when it is necessary to replace a stock or stocks in the Index, every effort will be made to add new stocks that are representative of the biotech sector and capitalization, liquidity, volatility and name recognition will be taken into account.

Index Options Trading

The Exchange proposes to base trading in its Index options on the full value of the CBOE BioTech Index (presently about 150–160).

Exercise and settlement

The Exchange proposes that CBOE BioTech Index options will have a European-style exercise [1] and will settle based on the closing value of the Index on the exercise date, the last business day prior to the Saturday expiration. The proposed options will expire on the Saturday following the third Friday of the expiration month. Thus, the last day for trading in an expiring series will be the business day prior to the Saturday expiration.

Exchange Rules Applicable to Stock Index Options

The CBOE BioTech Index option, as proposed, will be very similar to the two broad-based Standard and Poor's Index options presently listed for trading on the CBOE (the OEX and the SPX).

[1] A European-style option only can be exercised during a specified period before the option expires.

including expiration months and multiplier. The Exchange intends to list several near term as well as quarterly series, and may list additional long-term options series with two and three years to expiration. Additionally, CBOE may list CAPS based on the BioTech Index. The multiplier will be $100. The Exchange reserves the right to list series in 2½ point intervals.

Position limits will be set according to the guidelines in CBOE Rule 24.4 for determining position limits on narrow-based indexes.

Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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

Written comments on the proposed rule change 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 approved such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 24, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2883 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Incorporated

January 31, 1992.

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:

Aegon, N.V.
Ordinary Shares 5 Guilders (File No. 7-7885)
Bairnco Corp.
Common Stock, $0.01 Par Value (File No. 7-7886)
Bet Holdings, Inc.
Common Stock, $0.01 Par Value (File No. 7-7887)
Biowhittaker, Inc.
Common Stock, $0.01 Par Value (File No. 7-7888)
British Telecommunications P/P
American Depository Receipts (File No. 7-7889)
CNA Income Shares
Common Stock, $1.00 Par Value (File No. 7-7890)
Equitable Real Estate Shopping Center L.P.
Common Stock, No Par Value (File No. 7-7891)
Gaylord Entertainment Co.
Class A Common Stock, $0.01 Par Value (File No. 7-7892)
Household International
$6.25 Cum. Conv. SF Pfd. Stock, No Par Value (File No. 7-7893)
InterCapital Insured Municipal Bond Trust
Common Stock, $0.01 Par Value (File No. 7-7894)
Itel Corporation
$3.37 ½ Cum. Conv. Exch. C Pfd. Stock, No Par Value (File No. 7-7895)
JHM Mortgage Securities LP
Common Stock, No Par Value (File No. 7-7896)
Kentucky Utilities Co.
Common Stock, No Par Value (File No. 7-7897)
Luby's Cafeterias, Inc.
Common Stock, $0.32 Par Value (File No. 7-7898)
Morgan Stanley Group
Pfd. B Dep. Shs (⅛ Share 8.88% Cum. Pfd. B Stock) (File No. 7-7899)
Mutual of Omaha Interest Shares
Common Stock, $0.01 Par Value (File No. 7-7900)
Sabine Royalty Trust
Units of Beneficial Interest, No Par Value (File No. 7-7901)
Savin Corp.
Common Stock, $0.001 Par Value (File No. 7-7902)
St. Paul Companies, Inc.
Common Stock, $1.50 Par Value (File No. 7-7903)
State Mutual Securities Trust
Common Stock, $1.00 Par Value (File No. 7-7904)
Taurus Municipal California Holdings, Inc.
Common Stock, $0.10 Par Value (File No. 7-7905)
Taurus Municipal New York Holdings, Inc.
Common Stock, $0.10 Par Value (File No. 7-7906)
Tidewater, Inc.
Common Stock, $0.10 Par Value (File No. 7-7907)
Total S.A.
American Depository Shares (⅛ Share Ord. B) (File No. 7-7908)
Wabash National Corp.
Common Stock, $0.01 Par Value (File No. 7-7909)
General Kinetics, Inc.
Common Stock, $0.25 Par Value (File No. 7-7910)

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 February 24, 1992, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications

[2] 17 CFR 200.30-3(a)(12) (1991).

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. 92-2795 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

January 31, 1992.

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:

Global Health Sciences Fund
Common Stock, $.01 Par Value (File No. 7-7911)
American Adjustable Rate Term Trust, Inc.—1998
Common Stock, $.01 Par Value (File No. 7-7912)

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 February 24, 1992, 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. 92-2794 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 31-30306; File No. SR-MSRB-92-1]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Fees for the MSIL System

January 30, 1992.

On January 2, 1992, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-92), 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. The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Board has designated this proposal as one establishing or changing a fee under section 19(b)(3)(A) of the Act, which renders the fee effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested people.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing herewith a proposed rule change to establish fees in connection with its operation of the Official Statement and Advance Refunding Document—Paper Submission ("OS/ARD") subsystem of the Municipal Securities Information Library ("MSIL" system) (hereinafter referred to as the "proposed rule change").[1] The Board will charge $12,000 (plus postage or delivery charges) for annual subscriptions of magnetic tapes of imaged official statements ("OSs") and advance refunding documents ("ARDs") and computer coded information, and $15 (plus postage or delivery charges) for individual paper copies of OSs and ARDs.[2] The proposed fees are structured to defray the Board's costs associated with producing electronic tapes and paper documents and disseminating such information to subscribers and other interested members of the public. The Board does not expect or intend to make a profit from the MSIL system, and will review the MSIL system fees annually to ensure that dissemination costs are paid for from user fees. The Board will file any new or modified fees with the Commission, pursuant to section 19(b)(1) of the Act.

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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) On June 13, 1991, the Commission approved the OS/ARD system and the MSIL system.[3] The OS/ARD system is a central electronic facility through which information collected and stored pursuant to MSRB rule G-36 [4] will be made available electronically and in paper form to market participants and information vendors in order to provide better access to more descriptive information on municipal securities and their issuers. In its prior filings with the Commission, the Board stated that it intends to use its general revenues for collecting, indexing and storing the OS/ARD system documents, and that the costs of paper copies and magnetic tapes would be paid for by user fees.[5]

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[1] The OS/ARD system and the MSIL system were approved by the Commission in Securities Exchange Act Release No. 29298 (June 13, 1991). The MSIL system is a central electronic facility through which information collected and stored pursuant to MSRB rule G-36 will be made available electronically to market participants and information vendors in order to provide better access to more descriptive information on municipal securities and their issuers.

[2] Paper copies will be produced only from documents electronically stored by the Board. The Board's imaging contractor plans first to image documents received since January 1, 1992. Therefore, at least initially, customers may order paper copies of OSs and ARDs submitted to the Board since January 1992. Older documents, *i.e.*, those received by the Board from January, 1990 through December 1991, will be imaged and should become available in paper form over the next two years. Older documents will continue to be available for copying at the Board's Public Access Facility.

[3] Securities Exchange Act Release No. 29298 (June 13, 1991).

[4] Rule G-36 requires underwriters to provide copies of final official statements and advance refunding documents within certain specified timeframes for most new issues issued since January 1, 1990.

[5] See Securities Exchange Act Release No. 28197 (July 12, 1990), 55 FR 29436.

The Board is establishing the proposed fees to defray the costs associated with producing and disseminating the electronic tapes and paper documents. The Board believes that employing a cost-based pricing plan is in the public interest because it will ensure that a complete collection of vital information on municipal securities will be available, at fair and reasonable prices, for the life of the securities.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall:

> * * * be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSIL system is designed to increase the integrity and efficiency of the municipal securities market by, among other things, helping to ensure that the price charged for an issue in the secondary market reflects all available official information about that issue. The Board believes that the fees associated with the MSIL system are fair and reasonable in light of the costs associated with producing and disseminating the information, and that the services provided by the MSIL system are available on reasonable and non-discriminatory terms to any interested person.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will effect any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because the fees will apply equally to all persons.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The rule change is effective upon filing, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder, because the proposal is "establishing or changing a due, fee or other charge." At any time within 60 days of filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to the File No. SR-MSRB-92-1 and should be submitted by February 27, 1992.

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. 92-2802 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30304; File No. SR-NASD-92-02]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to an Extension of the NASD's Policy Statement on Market Closings

January 29, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 22, 1992, the National Association of Securities Dealers, Inc. ("NASD") 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 NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is filing this proposed rule change pursuant to section 19(b)(2) of the Act to extend until December 31, 1993, its Policy Statement on Market Closings ("Statement" or "Policy Statement"), adopted pursuant to Article VII, section 3 of the NASD By-Laws.

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 Policy Statement was adopted as a rule proposal of the NASD under Article VII, section 3 of the NASD By-Laws, which provides the NASD authority, acting through a designated committee of the Board of Governors ("Board"), to take appropriate action in the event of an emergency or extraordinary market conditions. Article VII, section 3 was adopted by the NASD as a result of the events of October 1987, and the provision was drafted to enable the NASD to respond to future crises with a maximum degree of flexibility, providing properly tailored responses to varying situations.

Specifically, the Policy Statement provides that the Board has determined that, at times when other major securities markets initiate market-wide trading halts in response to extraordinary market conditions, the NASD will, upon request from the Commission, act to halt domestic trading in all securities quoted in the NASDAQ system and domestic trading in equity or equity-related securities in the over-the-counter market. In October 1988, the Commission approved proposals submitted by the American Stock Exchange ("Amex"), Boston Stock

Exchange ("BSE"), Chicago Board Options Exchange ("CBOE"), Cincinnati Stock Exchange ("CSE"), Midwest Stock Exchange ("MSE"), New York Stock Exchange ("NYSE"), Philadelphia Stock Exchange ("PHLX") and Pacific Stock Exchange ("PSE") (collectively, "the Exchanges") that provided for uniform circuit breaker procedures during volatile market conditions.[1] Specifically, the circuit breaker rules provide that trading in all markets will halt for one hour if the Dow Jones Industrial Average ("DJIA") declines 250 points or more from its previous day's closing level and, thereafter, trading will halt for an additional two hours if the DJIA declines 400 points from its previous day's closing value.[2]

These circuit breaker rules, which are designed to substitute planned trading halts for unplanned and destabilizing market closings, are an important part of the measures adopted by the Exchanges to address market volatility concerns in the wake of the October 1987 Market Break. These circuit breaker mechanisms are still in effect today.[3] In addition, both the Report of the Presidential Task Force on Market Mechanisms ("Brady Report") and the Working Group's Interim Report[4] recommended that coordinated trading halts and reopening procedures be developed that would be implemented in all U.S. markets for equity and equity related products during large, rapid market declines.[5]

The Policy Statement expresses the views of the Board as of January 1992 concerning progress made on the numerous proposals emanating from the October 1987 crises. From time to time, the Board will review progress made on the recommendations set forth in the Statement as well as other developments as they may occur. The views of the Board may change and the NASD may modify or amplify the Statement accordingly. It should be noted that the Policy Statement sets forth the NASD's proposed response to a specific set of circumstances. The Statement does not in any way preclude the NASD from taking any other action that may be appropriate under other circumstances.

The NASD believes the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, as the Policy Statement is designed to foster cooperation and coordination with the Commission and the other self-regulatory organizations engaged in regulating the U.S. securities markets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Since the Commission approved the circuit breaker proposals in October 1988, the DJIA has not experienced a one day 250-point decline that would trigger a market halt. Nevertheless, the Commission continues to believe that circuit breaker procedures are desirable to deal with potential strains that may develop during periods of extreme market volatility, and, accordingly, the Commission believes that the Policy Statement should be extended. The Commission also believes that circuit breakers represent a reasonable means to retard a rapid, one day market decline that can have a destabilizing effect on the nation's financial markets and participants.

Accordingly, the Commission finds that the proposed rule change filed by the NASD is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of section 15A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** because there are no changes being made to the current provisions, which originally were subject to the full notice and comment procedures, and accelerated approval would enable the Policy Statement to continue on an uninterrupted basis. Due to the importance of circuit breakers for market confidence, soundness, and integrity, it is necessary and appropriate that these procedures continue on an uninterrupted basis. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with sections 15A and 19b of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-

[1] See Securities Exchange Act Release Nos. 26440 (January 10, 1989), 54 FR 1830 (CSE); 26386 (December 22, 1988), 53 FR 52904 (PHLX); 26368 (December 16, 1988), (53 FR 51942 (PSE); 26357 (December 14, 1988), 53 FR 51182 (BSE); 26218 (October 28, 1988), 53 FR 44137 (MSE); and 26198 (October 19, 1988), 53 FR 41637 (Amex, CBOE, NASD and NYSE).

[2] If the 250-point trigger is reached within one hour of the scheduled close of trading for a day, or if the 400-point trigger is reached within two hours of the scheduled close of the trading day, trading will halt for the remainder of the day. If, however, the 250-point trigger is reached between one hour and one-half hours before the scheduled closing, or if the 400-point trigger is reached between two hours and one hour before the scheduled closing, the Exchanges would retain the power to use abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish closing prices.

[3] See Securities Exchange Act Release Nos. 29868 (October 28, 1991), 56 FR 56535 (Amex, BSE, MSE, NYSE, and PHLX); 26440 (January 10, 1989), 54 FR 1830 (CSE); and 26368 (December 16, 1988), 53 FR 51942 (CBOE and PSE). In addition, the stock index futures exchanges have implemented parallel circuit breakers that were approved by the Commodity Futures Trading Commission ("CFTC") on a permanent basis.

[4] The Working Group on Financial Markets was established by the President in March 1988 to provide a coordinating framework for consideration, resolution, recommendation, and action on the complex issues raised by the market break in October 1987. The Working Group consists of the chairmen of the Commission, Board of Governors of the Federal Reserve System and the CFTC, and the Under Secretary for Finance of the Department of the Treasury.

[5] In particular, the Working Group recommended a one-hour trading halt if the DJIA declined 250 points from its previous day's closing level, and a subsequent two-hour trading halt if the DJIA declined 400 points blow its previous day's closing level. The Working Group also recommended that the NYSE use reopening procedures after these halts, similar to those used on Expiration Fridays, that are designed to enhance the information made public about market conditions.

mentioned self-regulatory organization. All submissions should refer to file No. SR-NASD-92-02 and should be submitted by February 27, 1992.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR-NASD-92-02) is approved until December 31, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2803 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[6] 15 U.S.C. 78s(b)(2) (1982).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

January 31, 1992.

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:

Banco Bilbao Vizcaya International (Gibraltar) Ltd.
American Depositary Shares (Representing 1 Non-Cumulative Gtd. Preferred Share Series A) (File No. 7-7860)
Employee Benefit Plans
Common Stock, $.01 Per Value (File No. 7-7861)
Healthtrust, Inc.—The Hospital Co.
Common Stock, $.001 Par Value (File No. 7-7862)
Luby's Cafeterias
Common Stock, $.32 Par Value (File No. 7-7863)
Office Depot, Inc.
Common Stock, $.01 Par Value (File No. 7-7864)

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 February 24, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-2797 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30303; File No. SR-PSE-91-49]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Waiver of Transaction, Order Book and Automatic Execution Charges in Three Multiply Listed Options

January 29, 1992.

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 December 20, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

For a three-month period beginning December 18, 1991, through March 18, 1992, the PSE proposes to waive all transaction, Order book and Pacific Options Exchange Trading System ("POETS") automatic execution charges for trades executed in Chiron Corporation ("CIQ"), Cisco Systems ("CYQ"), and Synergen ("YGQ") options. The text of the proposed rule change is available at the Compliance Department of the PSE and at the Commission

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

From December 18, 1991, through March 18, 1992, the PSE proposes to waive all transaction, Order Book and POETS automatic execution charges for trades executed in CIQ, CYQ, and YGQ options. The Exchange believes that although its market makers will provide excellent markets in these multiply listed options classes, the proposed three-month waiver is necessary in order to allow the PSE to remain on a competitive footing with other options exchanges. The PSE believes that the waiver will encourage trading decisions on the basis of the strength of the marketplace.

The Exchange believes that the proposal is consistent with section 6(b)(5) of the Act in that it will increase competition and the quality of the markets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposal were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. 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 February 27, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2798 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30309; File No. SR-PSE-91-36]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Fees for Appeals of Disciplinary Actions

January 30, 1992.

On November 18, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("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 to amend PSE Rule 10.8 to require submission of a $500 filing fee with a petition for review of a disciplinary decision to the Exchange.

The proposed rule change was noticed in Securities Exchange Act Release No. 30049 (December 9, 1991), 56 FR 65298 (December 16, 1991). No comments were received on the proposal.

Current Rule 10.8(a) provides that either the complainant (the Exchange) or the respondent (the person or organization alleged to have committed the violation) may request review of a disciplinary decision by petitioning the Board of Governors ("Board") within fifteen days after service of notice of the decision. After a request for review is filed, the request is either referred to an Appeals Committee appointed by the Board[3] or the Board may decide to conduct the review proceedings on its own.[4] The PSE currently does not require a respondent to submit a fee for the filing of such appeals.

The PSE proposes to amend Rule 10.8(a) to require that a respondent submit a $500 filing fee with the respondent's request for review of a disciplinary decision.[5] The proposal, however, would allow the Board to waive the filing fee upon a showing of hardship or other compelling reason. Moreover, amended Rule 10.8(a) would require a refund of the filing fee if the decision is overruled in whole as a result of the appeal. This rule also would permit a refund of the filing fee, or any portion thereof, if a decision is overruled in part as a result of the appeal.

The PSE states that the proposed filing fee would be used to help cover the costs associated with the processing of appeals by the Exchange. In particular, the PSE states that it pays a fee of $250 to each Governor for their time and effort in reviewing a disciplinary decision. This $250 fee is paid to each Governor for each meeting necessary to review a particular decision. In addition, the Exchange states that the preparation of hearing transcripts for the use of the Review Board typically costs the Exchange between $200 to $500, depending on the length of the hearing and whether the hearing was tape recorded or transcribed. The PSE states that excluding the time that is devoted to each appeal by the Exchange staff administrator, the attorney handling the case, and other Exchange staff who are at times called upon for specific matters, the Exchange spends approximately $1,200 to $1,500 for each appeal.

The PSE believes that the ease with which an appeal can be filed, and the fact that a member, member organization, or a person associated with a member or member organization ("member") can receive a "second look" at no cost to the member, creates the potential for an abuse of the appeal process. The PSE states that the proposed filing fee will have the effect of deterring frivolous appeals, yet it will not deter a member from filing a request for review when the member believes that there are grounds for reversal of a decision. Accordingly, the PSE believes that the proposed filing fee will not interfere with a member's fundamental right to have a decision reviewed by the Board, but will, if the initial disciplinary decision is upheld, help to cover the costs incurred.

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 sections 6(b) (4), (7) and 6(d)(1) of the Act.[6] Section 6(b)(4) requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers, and other persons using its facilities. Section 6(b)(7) of the Act requires, among other things, that exchange rules provide a fair procedure for the disciplining of members and persons associated with members. Section 6(d)(1) of the Act sets forth certain requirements for the conduct of exchange disciplinary proceedings, including the requirements of notice, an opportunity to be heard, and maintenance of a record of the proceedings. The Commission believes, for the reasons set forth below, that the proposed rule change satisfies all of the statutory requirements.

The Commission believes that it is reasonable to shift a portion of the costs associated with appeal proceedings to those members seeking review of disciplinary decisions, and, in particular, those members whose disciplinary decisions are upheld by the Review Board. The imposition of a fee for filing an appeal is used in many judicial and regulatory fora.[7] Such a fee helps to defray the costs of providing a judicial or regulatory apparatus for handling appeals. At the same time, the fee should not be so high as to bar access to the appellate process. The PSE fee is reasonable in this regard. First, while the fee is not *de minimis*, it is small enough so as not to exact a major cost on persons desiring to file an appeal.

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[1] 17 CFR 200.30-3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] The current Appeals Committee consists of all four public Governors on the Board.

[4] See PSE Rule 10.8(b). The body conducting the review is referred to as the "Review Board."

[5] The PSE proposes to require a $500 fee for the appeal of each decision filed with the Exchange. Therefore, if more than one party appeals a decision, the PSE would require only a $500 fee for the appeal under the proposal.

[6] 15 U.S.C. 78f (1988).

[7] For example, pursuant to United States Supreme Court Rule 38, an applicant filing a petition for certiorari must pay a filing fee of $300.

Second, the proposed fee allows the Board to waive the $500 fee for hardship or other compelling reasons, requires the return of this fee if the decision is overruled on appeal, and permits the Board to return the fee or a portion thereof if a decision is overruled in part on appeal. The Commission, therefore, believes that the proposal appropriately balances the Exchange's interest in the efficient administration of its review proceedings with a member's interest in the fair and equitable resolution of a disciplinary matter on appeal.

The Commission also does not believe that the proposed filing fee should interfere with the requirements of section 6(d)(1) of the Act, which governs the initiation and conduct of disciplinary proceedings. The proposed rule will only add a filing fee for a member who seeks review of a decision under the Exchange's review procedures. As noted above, the Commission does not believe that the fee will restrict the ability of a member to seek Exchange review of a disciplinary matter. Moreover, the proposal would not interfere with the Commission's authority pursuant to section 19(d)(2) of the Act [8] to review the Exchange's final disciplinary sanctions on its own motion or upon application by an aggrieved person.

Finally, because the fee will shift to the responsible party a portion of the costs involved in administering the appellate process, the proposal is consistent with the equitable allocation of dues and fees to all PSE members.

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2882 Filed 2-5-92; 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

January 31, 1992.

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:

Permian Basin Royalty Trust
Units of Beneficial Interest (File No. 7-7865)
Intercapital Quality Municipal Investment Trust
Common Stock, $.01 Par Value (File No. 7-7866)
Georgia Power Company
Class A Pfd Stock, No Par Value (File No. 7-7867)
Medco Research
Common Stock, No Par Value (File No. 7-7868)
Semi Conductor Packaging Materials Co., Inc.
Common Stock, $.10 Par Value (File No. 7-7869)
Attwoods Plc
Ordinary Shares, 5p Par Value (File No. 7-7870)
American Precision Industries
Common Stock, $0.66 2/3 Par Value (File No. 7-7871)
AMSCO International
Common Stock, $0.01 Par Value (File No. 7-7872)
Global Health Sciences Fund
Shares of Beneficial Interest, $.01 Par Value (File No. 7-7873)
Revlon, Inc.
11 3/4 Notes due 95 (File No. 7-7874)
Trump Taj Mahal Funding Inc.
11.35 Notes due 95 (File No. 7-7875)
Leisure Technologies, Inc.
Preferred Stock (File No. 7-7876)
Southern National Corporation
Common Stock, $5 Par Value (File No. 7-7877)
Vigoro Corporation
Common Stock, $0.01 Par Value (File No. 7-7878)
Hondo Oil & Gas Co.
Common Stock, $1 Par Value (File No. 7-7879)
Health Care & Retirement
Common Stock, $0.01 Par Value (File No. 7-7880)
Presley Companies
Common Stock, $0.01 Par Value (File No. 7-7881)
R.P. Scherer
Common Stock, $0.01 Par Value (File No. 7-7882)
National Health Investor, Inc.
Common Stock, $0.01 Par Value (File No. 7-7883)
NationsBank Corporation
Common Stock, $0.01 Par Value (File No. 7-7884)

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 February 24, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-2796 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18508; 812-7756]

Centerland Fund, et al.; Application

January 30, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Centerland Fund (the "Fund") and Goldman, Sachs & Co. ("Goldman Sachs").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 18(f)(1), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seek an amendment of an existing order to permit bond and equity portfolios of the Fund to issue and sell separate classes of units representing interests in the same portfolio. These classes would be identical in all respects, except that (a) certain classes would bear expenses attributable to a rule 12b-1 plan or a shareholder services plan, (b) the classes would have different voting rights, exchange privileges, and class designations, (c) units of certain classes could be sold subject to a front-end sales load, (d) the transfer agency fees paid by each class may vary, and (e) the classes would vary as to minimum account size and related matters.

FILING DATES: The application was filed on July 19, 1991 and amended on December 20, 1991 and January 28, 1992.

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 the 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 February 24, 1992 and should be accompanied by proof of service on the

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[8] 15 U.S.C. 78s(d)(2) (1988).

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30-3(a)(12) (1991).

applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 4900 Sears Tower, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272-3035, or Nancy M. Rappa, 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.

1. The Fund is a Massachusetts business trust registered under the 1940 Act as an open-end management investment company, and has an effective registration statement under the Securities Act of 1933. Currently, the Fund offers units in the following investment portfolios, each of which declares dividends daily: the Short-Term Diversified Assets Portfolio, the Short-Term U.S. Treasury Portfolio, and the Short-Term Tax-Exempt Portfolio (such portfolios, together with all series subsequently established or otherwise acquired that declare dividends daily, are referred to as the "Daily Dividend Portfolios").

2. In Investment Company Act Release No. 18101 (Apr. 16, 1991) (the "Prior Order"), the Commission issued an order permitting the Fund to issue and sell three basic classes of units ("Units") with respect to each Daily Dividend Portfolio (the "Multi-Class System"). One class of Units is not subject to a rule 12b-1 plan or a shareholder services plan (the "No Plan Units"). The second class of Units (the "Administration Units") is offered in accordance with paragraphs (b) through (f) of rule 12b-1 (except for that rule's shareholder approval requirements) (the "Administration Plan"). The third class of Units (the "Service Units") is offered pursuant to a rule 12b-1 plan (the "Service Plan"). The Administration Plan and the Service Plan are referred to as the "Plans."

3. Applicants expect to create several bond and equity portfolios that will not declare dividends daily (such portfolios, together with all series subsequently established or otherwise acquired that do not declare dividends daily, are referred to as the "Non-Daily Dividend Portfolios;" the Daily Dividend Portfolios and the Non-Daily Dividend Portfolios are referred to collectively as the "Portfolios.") In the present application, applicants request that the exemptive relief granted in the Prior Order be extended so that Non-Daily Dividend Portfolios may issue and sell No Plan Units, Administration Units, and Service Units.

4. Goldman Sachs acts as investment adviser and distributor for the three Daily Dividend Portfolios. Boatmen's Trust Company ("Boatmen's") acts as subadviser to the Short-Term Tax-Exempt Portfolio. Non-Daily Dividend Portfolios may be advised by Goldman Sachs, Boatmen's, or an affiliate of Boatmen's, and are expected to be administered and distributed by Goldman Sachs.

5. As is the case for the Daily Dividend Portfolios, under each type of Plan covering the Non-Daily Dividend Portfolios, the Fund would enter into servicing agreements ("Service Agreements") with banks or other institutions ("Service Organizations"), under which the Service Organization would provide certain support services to its customers ("Customers") who from time to time beneficially own Units offered in connection with a Plan.

6. As under the Prior Order, the services to be provided by Service Organizations to their Customers under an Administration Plan governing a class of Units in a Non-Daily Dividend Portfolio may include:

(a) Acting as unitholder of record and nominee for all Customers;

(b) Maintaining account records for each Customer;

(c) Answering questions and handling correspondence from Customers;

(d) Processing Customer orders to purchase, redeem, or exchange Administration Units;

(e) Transferring funds used to purchase or redeem Administration Units;

(f) Issuing transaction confirmations; and

(g) Providing other account administration services (collectively, the "Account Administration Services").

7. As is the case for the Daily Dividend Portfolios, the services to be provided by Service Organizations to their Customers under a Service Plan covering Units in a Non-Daily Dividend Portfolio would include:

(a) Account Administration Services;

(b) Answering questions about the Fund posed by prospective and existing investors;

(c) Providing prospectuses and statements of additional information on request;

(d) Assisting Customers in completing application forms, selecting dividend and other options, and opening custody accounts with the Service Organization; and

(e) Generally acting as liaison between investors and the Fund (collectively, the "Unitholder Liaison Services").

8. As is the case for the Daily Dividend Portfolios, under each type of Plan covering the Non-Daily Dividend Portfolios, the Fund would make certain payments to a Service Organization for Account Administration and Unitholder Liaison Services ("Service Payments"). Service Payments made pursuant to a Service Plan would not exceed .75% per annum of the average daily net asset value of those Service Units beneficially owned by Customers of the Service Organization, and Service Payments made under an Administration Plan would not exceed .50% per annum of the average daily net asset value of those Administration Units beneficially owned by Customers of the Service Organization.

9. As under the Prior Order, each class of units in a Non-Daily Dividend Portfolio would bear the cost of preparing, printing, and mailing proxy materials relating to a particular Plan ("Class Expenses"). The determination of which expenses would be allocated as a Class Expense would be made by the Board of Trustees of the Fund in the manner described in condition 3 below.

10. As is the case for the Daily Dividend Portfolios, each Unit in a Non-Daily Dividend Portfolio, regardless of class, would represent an equal *pro rata* interest in that Portfolio and would have identical voting, dividend, liquidation, and other rights, except that: (a) Each class of Units would have a different class designation; (b) each class of Units offered in connection with a Plan would bear its particular Service Payments; (c) each class of Units would bear certain Class Expenses; (d) unitholders of a particular class would have exclusive voting rights with respect to matters pertaining to their Plan; (e) each class would have different exchange privileges; (f) the transfer agency fees paid by each class may vary; (g) certain classes of Units of such Portfolios mig' be sold subject to a front-end sales load; and (h) the classes may be subject to different minimum account sizes and similar matters. The requested order also would amend the Prior Order to permit the classes of Units of the Daily

Dividend Portfolios to be assessed different transfer agency fees.

11. As under the Prior Order, the net asset value of all outstanding Units representing interests in the same Non-Daily Dividend Portfolio would be computed on the same days and at the same times by class by determining the amount of net assets attributable to each class of Units and dividing by the amount of Units for such class as more fully described in the Expert's Report discussed below. The gross income and expenses of a Non-Daily Dividend Portfolio would be allocated to each of the Portfolio's classes based on the relative net asset value of each class.

12. The net asset value per Unit of each class in a Non-Daily Dividend Portfolio may differ between dividend declaration dates. This is due to the fact that, while the net asset value per Unit representing interests in the same Portfolio would be computed on the same days, at the same time, and in the same manner, the Service Payments and Class Expenses would be different for each such class. As a result, the daily net income realized by each class would differ, and the net asset value per Unit attributable to each class could vary prior to the declaration of dividends. Such variance would reflect only accrued net income to which the unitholders of a particular class are entitled, but which has not yet been declared as a dividend.

Applicant's Legal Analysis

1. Applicants request an exemptive order because the different expenses and dividends of the Fund's No Plan Units, Administration Units, and Service Units might be regarded as creating a class of stock with "priority over any other class as to distribution of assets or payment of dividends" within the meaning of section 18(g) of the 1940 Act. Section 18(f)(1) of the 1940 Act generally prohibits a registered open-end company, such as the Fund, from issuing or selling any class of senior security. Moreover, the fact that unitholders would enjoy exclusive voting rights with respect to matters affecting their class is not consistent with the requirement in section 18(i) that shares of a registered management company have equal voting rights. The Fund asserts that the proposed allocation of expenses and voting rights is equitable, and would not unfairly discriminate against any group of unitholders. Unitholders receiving the services provided under a Plan would bear the costs of such services, but would also enjoy exclusive voting rights with respect to matters affecting the Plan. Conversely, investors purchasing No Plan Units would not bear those expenses, receive the service benefits of such Plans, or enjoy those voting rights.

2. Applicants believe that it would be inefficient and economically infeasible to organize a separate investment portfolio for each class of Units created. Not only might the Fund incur duplicative costs in organizing and operating such new portfolios, but the Fund's management of its existing portfolios might be hampered. For those reasons, the Fund seeks to create new classes of Units, rather than new portfolios.

3. Applicants maintain that the proposed arrangement does not involve borrowing, and does not affect the Fund's existing assets or reserves. Nor will the proposed arrangement increase the speculative character of the Units in a Non-Daily Dividend Portfolio, since all Units—No Plan, Administration, and Service—would participate *pro rata* in all of the Portfolio's income and all of the Portfolio's expenses (with the exception of the Service Payments and other expenses attributable to a particular class). Accordingly, the Fund submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicant's Conditions

If the requested order is granted, applicants will comply with the following conditions:

1. Each class of Units of a Non-Daily Dividend Portfolio will represent interests in the same portfolio of investments, and be identical in all respects, except as set forth below. The only differences between the classes of Units of a Non-Daily Dividend Portfolio will relate solely to:

(a) The impact of the disproportionate Service Payments made under the Administration Plan and the Service Plan, the cost of preparing, printing and mailing proxy materials relating to only a particular class, and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the SEC pursuant to an amended order;

(b) The fact that the classes will vote separately with respect to the Portfolio's Administration Plan and Service Plan;

(c) The different exchange privileges of the classes of Units;

(d) The designation of each class of Units of a Portfolio;

(e) In the case of non-money market Portfolios, the sales load that classes of Units will carry due to differing distribution methods;

(f) The different transfer agency fees charges to different classes of Units;

(g) The different requirements as to when funds may be received to effect purchases;

(h) The different minimum account size requirements; and

(i) The different investment options, including systematic investment and systematic withdrawal options.

2. The Trustees of the Fund, including a majority of the independent Trustees, will approve the offering of different classes of Units (the "Multi-Class System") for Non-Daily Dividend Portfolios. The minutes of the meetings of the Trustees of the Fund regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Multi-Class System with respect to Non-Daily Dividend Portfolios will reflect in detail the reasons for the Trustees' determination that the proposed Multi-Class System is in the best interests of both the Fund and its unitholders of Non-Daily Dividend Portfolios.

3. The Class Expenses to be allocated to a particular class of units of a Non-Daily Dividend Portfolio and any subsequent changes thereto will be reviewed and approved by a vote of the Trustee of the Fund, including a majority of the Trustees who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by a Non-Daily Dividend Portfolio to meet Class Expenses shall provide to the Trustees, and the Trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the Trustees of the Fund, pursuant to their fiduciary responsibilities under the 1940 Act and otherwise, will monitor the Fund for the existence of any material conflicts among the interests of the classes of Units of Non-Daily Dividend Portfolios. 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. Goldman Sachs will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, Goldman Sachs, at its own cost, will remedy such conflict up to and including establishing a new registered management investment company.

5. Any Service Plan adopted or amended to permit the assessment of a Rule 12b-1 fee on any class of Units which has not had its Rule 12b-1 plan approved by the public unitholders of that class will be submitted to the public

unitholders of such class for approval at the next meeting of unitholders after the initial issuance of the class of Units. Such meeting is to be held within sixteen 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.

6. The Administration Plans will be adopted and operated in accordance with the procedures set forth in Rule 12b-1 (b) through (f) as if the expenditures made thereunder were subject to Rule 12b-1, except that unitholders need not enjoy the voting rights specified in Rule 12b-1. In evaluating the Administration Plans, the Trustees will specifically consider whether (a) such Plans are in the best interest of the applicable classes and their respective unitholders; (b) the services to be performed pursuant to the Administration Plans are required for the operation of the applicable classes; (c) the Service Organizations can provide services at least equal, in nature and quality, to those provided by others, including the Fund, providing similar services; and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

7. Each Service Agreement entered into pursuant to an Administration Plan will contain a representation by the Service Organization that any compensation payable to the Service Organization in connection with the investment of its Customers' assets in the Fund (a) will be disclosed by it to its Customers; (b) will be authorized by its Customers; and (c) will not result in an excessive fee to the Service Organization.

8. Each Service Agreement entered into pursuant to an Administration Plan will provide that, in the event an issue pertaining to an Administration Plan is submitted for unitholder approval, the Service Organization will vote any Units held for its own account in the same proportion as the vote of those Units held for its Customers' accounts.

9. The Trustees of the Fund will receive quarterly and annual statements concerning the amounts expended under the Administration Plans and Service Plans and the related Service Agreements 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 or servicing of a particular class of Units will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

10. Dividends paid by a Non-Daily Dividend Portfolio with respect to each class of its Units, 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 Service Payments made by a class under its Plan and any Class Expenses will be borne exclusively by that class.

11. The methodology and procedures for calculating the net asset value and dividends and distributions of the classes and the proper allocation of expenses among the classes has been reviewed by an expert (the "Expert") who has rendered a report to applicants, which has been provided to the staff of the SEC, 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 monitor 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 Fund 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 SEC pursuant to sections 30(a) and 30(b)(1) of the 1940 Act. The work papers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the Fund 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.

12. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the classes of Units and the proper allocation of expenses among the classes of Units and this representation will be concurred with by the Expert in the initial report referred to in condition (11) 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 (11) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

13. The prospectuses of each class of Units will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund Units may receive different compensation with respect to one particular class of Units over another in the Fund.

14. Goldman Sachs will continue to follow its existing compliance standards as to when each class of Units may appropriately be sold to particular investors. Applicants will require all persons selling Units of the Fund to agree to conform to such standards.

15. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees of the Fund with respect to the Multi-Class System, as expanded, will be set forth in guidelines which will be furnished to the Trustees.

16. The Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of Units in every prospectus, regardless of whether all classes of Units are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of Units in every unitholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of Units, it will also disclose the respective expenses and/or performance data applicable to all classes of Units. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of Units separately.

17. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply SEC approval, authorization, or acquiescence

in any particular level of payments that the Fund may make to Service Organizations pursuant to any Plan in reliance on the exemptive order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2800 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-18506; File No. 812-7589]

Neuberger & Berman Advisers Management Trust, et al.

January 29, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission")

ACTION: Notice of application for an amended order of exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Neuberger & Berman Advisers Management Trust ("AMT"), Neuberger & Berman Management Incorporated (the "Adviser"), Sentry Life Insurance Company ("Sentry"), Sentry Variable Life Account I (the "Account"), and Sentry Equity Services, Inc. ("SESI").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) exempting certain transactions from the provisions of sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

SUMMARY OF THE APPLICATION: Applicants seek an amended order under Section 6(c) of the 1940 Act exempting them from sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, to the extent necessary to permit the Account and other affiliated and unaffiliated insurance company separate accounts to invest in shares of AMT, which also will sell its shares directly to qualified pension and retirement plans outside of the separate account context.

FILING DATE: The application was filed on September 10, 1990 and amended on November 23, 1990, October 30, 1991, and January 27, 1992.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the Commission by 5:30 p.m. on February 24, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof and service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. AMT and Adviser, 342 Madison Avenue, New York, New York 10173. Sentry, the Account, and SESI, 1800 North Point Drive, Stevens Point, WI 54481.

FOR FURTHER INFORMATION CONTACT: Michael V. Wible, Senior Attorney, at (202) 272-2026, or Heidi Stam, Assistant Chief, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Sentry, a stock life insurance company organized under the laws of the State of Wisconsin, is the depositor and sponsor of the Account. The Account is a segregated asset account of Sentry and is registered under the 1940 Act as a unit investment trust. The Account was established to act as the funding entity for a flexible premium variable life insurance policy. Net premiums under the policy are allocated to the Account, which in turn invests at net asset value in AMT.

2. AMT is an open-end diversified management investment company of the series type. The Adviser manages AMT and distributes its shares. The Adviser is not affiliated with any of the insurance companies whose variable annuity and variable life insurance contracts have AMT as an underlying investment.

3. The Applicants filed this application to amend an amended Order dated January 7, 1988 (the "1988 Amended Order"). Investment Company Act Release No. 16207 (Jan. 7, 1988). The 1988 Amended Order added AMT as a party to a previous order (the "Original Order") granting exemptions from sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, to the extent necessary to permit mixed and shared funding. Investment Company Act Release No. 15324 (Sept. 23, 1986). The use of a common management company as the investment medium of both variable annuities and variable life insurance is referred to as "mixed funding". The use of a common management company as the investment medium for separate accounts of unaffiliated insurance companies is referred to as "shared funding". Rule 6e-2(b)(15) precludes mixed and shared funding and Rule 6e-3(T)(b)(15) precludes shared funding.

4. Rules 6e-2 and 6e-3(T) provide certain exemptions from the 1940 Act that permits insurance companies separate accounts to issue variable life insurance. The exemptions in Rule 6e-2(b)(15) are available only to separate accounts, all the assets of which consist of the shares of one or more registered management investment companies which offer their shares exclusively to variable life insurance separate accounts of a life insurer or of any affiliated life insurance company. The exemptions in Rule 6e-3(T)(b)(15) are available only to separate accounts, all the assets of which consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of a life insurer, or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the insurer or an affiliated insurance company.

5. The Applicants now propose that AMT also sell its shares directly to qualified pension and retirement plans ("Qualified Plans" or "Plan") outside of the separate account context. The Qualified Plans may choose AMT as the sole investment under the Plan or as one of several investments. Plan participants may or may not be given an investment choice depending on the Plan itself. Shares of AMT sold to Qualified Plans would be held by the trustees of the plans as mandated by section 403(a) of the Employee Retirement Income Security Act ("ERISA"). The Adviser will not act as investment adviser to any of the Qualified Plans which will purchase shares of the Trust. All of the voting stock of the Adviser is owned by individuals who are general partners of Neuberger & Berman ("Subadviser") which acts as sub-adviser to the Trust. It is possible that the Sub-Adviser may act as an investment adviser to the Qualified Plans which may invest in the Trust. However, none of the assets in any Qualified Plan advisory account managed by the Sub-Adviser will be invested in the Trust. The Sub-Adviser is also not permitted to advise such Qualified Plans to invest in the Trust. The Qualified Plans for which the Sub-Adviser acts as investment adviser may, of their own volition, independently

choose to invest in the Trust. The application seeks exemptive relief only as it pertains to the mixed and shared funding portion of the Original Order and the 1988 Amended Order.

6. The Applicants assert that the relief granted by Rules 6e-2(b)(15) and 6e-3(T)(b)(15) is in no way affected by the purchase of AMT shares by Qualified Plans. The Applicants assert that none of the relief provided in Rules 6e-2(b)(15) or 6e-3(T)(b)(15) relates to qualified pension and retirement plans or to a registered investment company's ability to sell its shares to such plans. However, because the relief under Rules 6e-2(b)(15) and 6e-3(T)(b)(15) is available only where shares of registered management investment companies are offered exclusively to separate accounts, the Applicants believe that additional exemptive relief is necessary if shares of AMT are to be sold directly to Qualified Plans. The Applicants assert that the requested relief is necessary to ensure that the participating insurance company separate accounts may continue to enjoy the benefits of the relief available under Rules 6e-2(b)(15) and 6e-3(T)(b)(15).

7. The Applicants assert that changes in the tax law have created the opportunity for AMT to increase its asset base through the sale of shares to Qualified Plans. The Applicants state that section 817(h) of the Internal Revenue Code of 1986, as amended (the "Code"), imposes certain diversification standards on the underlying assets of variable annuity and variable life insurance contracts (collectively, "variable contracts") held in the portfolios of AMT. The Code provides that a variable contract shall not be treated as an annuity contract or life insurance contract for any period in which the investments are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued regulations which established diversification requirements for the investment portfolios underlying variable contracts. Treas. Reg. 1.817-5 (1989). The regulations provide that, in order to meet the diversification requirements, all of the beneficial interest in the investment company must be held by the segregated asset accounts of one or more insurance companies. However, the regulations also contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares of the same investment company to be held by the separate accounts of insurance companies in connection with their variable contracts. Treas. Reg. § 1.817-5(f)(3)(iii).

8. The Applicants state that the promulgation of Rules 6e-2 and 6e-3(T) preceded the issuance of the Treasury regulations. The Applicants assert that the sale of shares of the same investment company to both separate accounts and Qualified Plans could not have been envisioned at the time of the adoption of Rules 6e-2(b)(15) and 6e-3(T)(b)(15).

9. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a)(1) or 9(a)(2). Rules 6e-2(b)(15) (i) and (ii), and 6e-3(T)(b)(15) (i) and (ii), provide exemptions from section 9(a) under certain circumstances. Applicants previously requested and received relief from section 9(a) and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) to the extent necessary to permit mixed and shared funding. The Applicants argue that the relief previously granted from section 9(a) will in no way be affected by the proposed additional use of the shares of AMT in connection with Qualified Plans. The insulation of AMT from those individuals who are disqualified under the 1940 Act remains in place. The Applicants assert that since the Qualified Plans are not investment companies and will not be deemed to be affiliated solely by virtue of their shareholdings, no additional relief is necessary.

10. The Applicants have previously requested and received relief from sections 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-2(T)(b)(15) thereunder to the extent necessary to permit mixed and shared funding. In support of their previous requests for relief, the Applicants have represented that all variable annuity and variable life contractowners would be provided pass-through voting rights with respect to shares of AMT, and that any potential irreconcilable conflicts which could develop among the separate accounts due to the insurance company's right to disregard voting instructions in certain limited circumstances, would be resolved through certain undertakings which the Applicants made as a condition of the exemptive relief. Shares of AMT sold to Qualified Plans would be held by the trustees of the Plans as mandated by section 403(a) of ERISA. Unless one of the two exceptions stated in section 403(a) of ERISA applies, plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. In any event, there is no pass-through voting to the participants in the plans. In that there is no pass-through voting with respect to Plan participants, the Applicants submit that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans.

11. The Applicants assert that when irreconcilable conflicts between separate accounts arise, the Participating Insurance Companies must take many time consuming steps to eliminate AMT as an eligible investment. The Applicants have concluded that the addition of the Qualified Plans as eligible shareholders does not increase the risk of material irreconcilable conflicts among shareholders. However, the Applicants assert that even if a material irreconcilable conflict involving the Qualified Plans arose, the Plans, unlike the separate accounts, can simply redeem their shares and make alternative investments. Because shares of AMT are sold without either a front-end or a rear-end sales load, such redemption is at net asset value. Thus, the Applicants argue that allowing Qualified Plans to invest directly in AMT does not increase the Opportunity for conflicts of interest.

12. The Applicants assert that regardless of the type of shareholder in AMT, the Adviser will continue to manage the Portfolio solely and exclusively in accordance with each Portfolio's investment objectives and restrictions as well as any guidelines established by the Board of Trustees of AMT. Individual Portfolio managers work with a pool of money and do not take into account the identity of the shareholders. The Applicants assert that AMT is managed in the same manner as any other mutual fund. If shareholders are displeased with the fund's investment results or the manner in which the fund is being operated, they redeem their shares. The Applicants state that it is the duty of the management of the fund, including the board of directors, or trustees as the case may be, to keep shareholders informed through updated prospectuses

and annual and semi-annual reports. The Applicants believe that these periodic communications to shareholders function as they are intended to. Thus, Qualified Plans and contractowners will be given up-to-date information necessary for them to make informed investment decisions.

13. The Applicants submit that the proposed exemptions are fully consistent with the policy and purposes of the 1940 Act. The Applicants assert that the sale of shares of AMT to Qualified Plans should result in an increased amount of assets available for investment by AMT which should inure to the benefit of variable contractowners by promoting economies of scale, by permitting greater safety through greater diversification, and by making the addition of new portfolios to AMT more feasible. Further, the Applicants submit that the use of AMT with Qualified Plans is not that dissimilar from AMT's current use in that Qualified Plans, like variable contracts, are generally long-term retirement vehicles. Applicants further submit that the sale of shares of AMT to Qualified Plans does not increase the risk of material irreconcilable conflicts to AMT or to the participating separate accounts.

14. Applicants' Conditions: In the event that a Qualified Plan shareholder should ever become an owner of 10% or more of the assets of AMT, the Qualified Plan shareholder will execute a fund participation agreement with AMT. A Qualified Plan shareholder will execute an application containing an acknowledgement of this condition at the time of its initial purchase of shares of AMT.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2801 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18512; No. 811-2415]

PFL Variable Annuity Fund V

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund V.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f).

SUMMARY OF APPLICATION: Application seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road, NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Pubic Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N-8A, a registration statement as a unit investment trust under the 1940 Act on Form N-8B-2, and a registration statement under the Securities Act of 1933 on Form S-6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 8, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant has assets of $43,205, consisting of shares of Lexington GNMA Income Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $43,170.

5. As of April 30, 1991, Applicant had 14 security holders (annuity contract owners); as of October 29, 1991, Applicant had 7 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the Application as exhibit C, to all of Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2880 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18509; No. 811-2413]

PFL Variable Annuity Fund I

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund I.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has

ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC. 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road, NW., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N-8A, a registration statement as a unit investment trust under the 1940 Act on Form N-8B-2, and a registration statement under the Securities Act of 1933 on Form S-6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 8, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant had assets of $247,708, consisting of shares of Lexington Research Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $246,751.

5. As of April 30, 1991, Applicant had 26 security holders (annuity contract owners); as of October 29, 1991, Applicant had 17 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the application as exhibit C, to all the Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2881 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18510; No. 811-2412]

PFL Variable Annuity Fund III

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund III.

RELEVANT 1940 ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC. 450 Fifth Street NW., Washington, DC 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N-8A, a registration statement as a unit investment trust under the 1940 Act on Form N-8B-2, and a registration statement under the Securities Act of 1933 on Form S-6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 8, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant had assets of $392,338, consisting of shares of Lexington Growth Income Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $391,910.

5. As of April 30, 1991, Applicant had 22 security holders (annuity contract owners); as of October 29, 1991, Applicant had 11 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the Application as Exhibit C, to all of Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2884 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18513; No. 811-2416]

PFL Variable Annuity Fund VI

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund VI.

RELEVANT 1940 ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N-8A, a registration statement as a unit investment trust under the 1940 Act on Form N-8B-2, and a registration statement under the Securities Act of 1933 on Form S-6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 8, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant had assets of $166,641, consisting of shares of Lexington GNMA Income Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $166,507.

5. As of April 30, 1991, Applicant had 41 security holders (annuity contract owners); as of October 29, 1991, Applicant had 19 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the Application as Exhibit C, to all of Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2879 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18511; No. 811-2414]

PFL Variable Annuity Fund IV

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund IV.

RELEVANT 1940 ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N-6A, a registration statement as a unit investment trust under the 1940 Act on Form N-8B-2, and a registration statement under the Securities Act of 1933 on Form S-6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 8, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant had assets of $100,177, consisting of shares of Lexington Growth Income Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $96,662.

5. As of April 30, 1991, Applicant had 59 security holders (annuity contract owners); as of October 29, 1991, Applicant had 21 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the Application as Exhibit C, to all of Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2877 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25463]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

January 31, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 24, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Corporation, et al. (70-7852)

Central and South West Corporation ("CSW"), registered holding company, and CSW Energy, Inc., ("Energy"), a wholly owned subsidiary company, 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43, 45, and 51 thereunder.

CSW and Energy propose to form a new wholly owned subsidiary ("Energy Sub"), to invest in a joint venture (the "Joint Venture") to be formed with EnerTran Technology Company ("EnerTran"). Energy Sub will be incorporated under the laws of the state of Delaware with an authorized capital of up to 1,000 shares of common stock without par value. Energy will subscribe to all of Energy Sub's common stock at a subscription price of $1.00 per share. Energy Sub's initial capitalization will not be less than $1,000.

Energy proposes to finance Energy Sub with up to $10 million through capital contributions, open account advances, loans and guarantees. Any such advances or loans will have an interest rate per annum not in excess of Mellon Bank's prime rate as in effect from time to time, plus 3% and a final maturity not to exceed 30 years. Guarantees, if any, would be made from time to time in support of obligations to be incurred by the Joint Venture in respect of contracts to be entered into with nonassociate third parties, including, but not limited to, power purchase contracts and fuel supply contracts.

Energy Sub will invest up to $10 million in the Joint Venture in the form of capital contributions, loans and guarantees. Loans will bear interest at a rate equal to the prime rate of The

Chase Manhattan Bank, N.A., as in effect from time to time, plus approximately 2%. The principal of each loan shall be payable from the anticipated revenues of the Joint Venture no later than 5 years after the date it is made. To the extent that revenues of the Joint Venture are insufficient to make such loan payments, amounts outstanding shall be converted into capital contributions. Aggregate financing by CSW and Energy to the Joint Venture is not to exceed $10 million of the $75 million authorized in an order of the Commission dated September 28, 1990 (HCAR No. 25162).

The Joint Venture will be in the business of developing and consulting with respect to, qualifying facilities within the meaning of the Public Utility Regulatory Policies Act of 1978 and independent power projects (each such qualifying facility or independent power project a "Facility" and, collectively, the "Facilities"). Subject to the prior approval of the Commission as required by the Act, the Joint Venture will also engage in the business of constructing, owning and operating Facilities and the business of, directly or indirectly, owning and holding the securities of special purpose corporations and interests in special purpose partnerships.

The Joint Venture will be organized in the form of a general partnership with an initial 87.5% interest for Energy Sub and 12.5% for EnerTran. Energy Sub's and EnerTran's initial capital contributions to the Joint Venture will be their separate right, title and interest in and to, and documents relating to, certain proposed facilities.

General Public Utilities Corporation (70–7926)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and its public-utility subsidiary companies, Jersey Central Power & Light Company ("JCP&L"), 300 Madison Avenue, Morristown, New Jersey 07960, Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Reading, Pennsylvania 19605 and Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, (collectively, the "GPU Companies"), have filed a declaration under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

The GPU Companies request authority from time to time through March 31, 1995 to: (1) Issue, sell and renew unsecured promissory notes ("Notes") in amounts up to $150 million outstanding at any one time and maturing not more than six months from the date of issue, to certain banks ("Banks") under the terms of a new revolving credit agreement ("Agreement") with Citibank, N.A. and Chemical Bank as co-agents and Chemical Bank as the administrative agent; (2) issue, sell and renew their unsecured promissory notes, maturing not more than nine months from the date of issue, pursuant to loan participation arrangements and informal lines of credit ("Lines of Credit") in amounts up to the limitations on short-term indebtedness contained in their respective charters but, in the case of GPU, $200 million; (3) incur other short-term unsecured debt, from time to time, in amounts up to the limits permitted by their respective charters but, in the case of GPU, $200 million; and (4) in the case of JCP&L, Met-Ed and Penelec, issue and sell their respective unsecured promissory notes as commercial paper ("Commercial Paper") in amounts up to their respective charter limits. In no event, however, would the total amount of such unsecured debt of any GPU Company outstanding at any one time of $196 million, $101 million and $124 million, respectively.

The annual interest rate on each borrowing under the Agreement would be either: (a) The Alternate Base Rate (defined below), as in effect from time to time; (b) the CD Rate (defined below), as in effect from time to time, plus an amount ranging from .375% to .625%; or (c) the Eurodollar Rate (defined below), as in effect from time to time, plus an amount ranging from .25% to .50%. The Alternate Base Rate is the greater of: (i) Chemical Bank's prime rate in effect from time to time; or (ii) the federal funds rate then in effect for such day plus ½ of 1%. The CD Rate is the domestic money market bid rate for certificates of deposit of various maturities issued by the reference banks, as specified in the Agreement, adjusted for certain reserve requirements and assessments. The Eurodollar Rate is the average annual rate at which deposits in U.S. dollars are offered by the principal offices of the reference banks in London to prime banks in the London interbank market from time to time, plus additional costs for reserves, if applicable. The GPU Companies propose to pay to the banks an annual facility fee on the total commitment ranging from .20% to .375% per annum and an agency fee of $25,000 to each of the co-agents. They would also pay an annual administrative agent fee of $15,000.

The GPU Companies may also invite competitive bids from the banks for loans with requested maturities of up to six months in such principal amounts as a GPU company may request, subject to the $150 million limit of the Credit Agreement. The GPU Companies would pay the banks a competitive bid fee of $2,500 for each request for a competitive bid.

The GPU Companies further request authorization through March 31, 1995 to issue, sell and renew their respective unsecured promissory notes, maturing not more than nine months after issue, to: (1) Various commercial banks pursuant to Lines of Credit; and (2) lenders other than commercial banks, insurance companies or similar institutions, in an amount which, when added to such GPU Company's total principal amount of Notes then outstanding, would not exceed the amount of short-term indebtedness permitted by such GPU Company's charter but, in the case of GPU, $200 million. Each such note will: (A) Bear interest at a rate (after giving effect to any fees and compensating balance requirements) either (i) not exceeding 125% of the lending bank's prime rate for commercial borrowing at the date of issue of such note, or (ii) not exceeding 125% of a recognized prime rate in the case of lenders other than commercial banks; (B) be prepayable to the extent provided therein, without premium; and (C) not be issued as part of a public offering.

New England Power Company (70–7930)

New England Power Company ("NEPCO"), 25 Research Drive, Westborough, Massachusetts 01582, an electric public-utility subsidiary company of New England Electric System, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a) and 10 of the Act and Rule 50(a)(5) thereunder.

NEPCO states that it has developed a comprehensive refinancing plan ("Refinancing Plan") to refinance a portion of its outstanding securities at significantly reduced interest and dividend costs. The Refinancing Plan calls for the issue and sale of one or more series of NEPCO's general and refunding mortgage bonds, the issue and pledge of one or more series of NEPCO's first mortgage bonds and the execution of one or more loan agreements. NEPCO further states that these transactions are exempt from section 6(a) of the Act or any rule thereunder pursuant to Rule 52 under the Act. In addition, the Refinancing Plan calls for NEPCO to enter into interest rate swap agreements ("Swaps"). NEPCO requests authorization to enter into one or more Swaps from time-to-time through

December 31, 1996, in notional amounts aggregating not in excess of $617 million.

Under a Swap, NEPCO would agree to make payments to a counterparty, payable periodically in arrears, at a fixed rate of interest calculated on the notional amount ("Fixed Payer"). In return, the counterparty would agree to make payments to NEPCO, based upon the same notional amount and an agreed upon variable interest rate index ("Fixed Receiver"). Alternatively, NEPCO and the counterparty may exchange roles as Fixed Payer and Fixed Receiver.

The Swaps will be for a term not to exceed 30 years. Variable-to-fixed Swaps would have a fixed interest rate ceiling of 9% per annum. Generally, the Swaps would provide that NEPCO may terminate the agreement with the counterparty's consent and/or with early termination payments, which could be substantial depending on market conditions. NEPCO may be obligated to pay various fees in connection with the Swaps and, in the event an intermediary between the counterparty and NEPCO is necessary for the purpose of guaranteeing payment obligations, such intermediary would require a fee, which would not exceed ½% per annum on the notional amount.

NEPCO also requests an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder for the Swaps.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2962 Filed 2-6-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18514; 811-3400]

SFT, Inc.; Notice of Deregistration

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SFT, Inc. ("SFT").

RELEVANT 1940 ACT SECTIONS: Section 8(f) and rule 8f-1 thereunder.

SUMMARY OF APPLICATION: SFT seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on 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 Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 27, 1992, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons 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. Applicant, 1016 West 8th Street, suite D, King of Prussia, Pennsylvania 19406.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272-2511, or Max Berueffy, Branch Chief, (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. SFT is a diversified open-end management company incorporated under the laws of Pennsylvania and consisting of the following ten portfolios: Equity Series, Defense Series, U.S. Government Series, Environmental Awareness Fund, NJ Pride Fund, Odd Lot Fund SBA Prime Fund, Asset Allocation Fund, Anthony Wayne Total Return Fund, and Seidman Growth and Income Fund. On February 17, 1982, SFT filed Notification of Registration on From N-8A pursuant to section 8(a) of the Act. On that same day, SFT filed a registration statement on Form N-1 thereby registering an indefinite number of shares under the Securities Act of 1933. SFT's registration statement became effective on July 14, 1982. A new registration statement was filed on November 23, 1990 and became effective on December 13, 1990.

2. On October 19, 1990, the SEC filed a complaint (the "Complaint") in the United States District Court for the Eastern District of Pennsylvania (the "Court") alleging that M. Wesley Groshans ("Groshans"), the former President, Treasurer, and a director of SFT, Brokers Capital Management Company, Inc. ("BCMC"), and SFT, as a nominal defendant, violated section 17(a) of the Act and other provisions of the federal securities laws. The Complaint alleged that beginning in January 1990, and continuing through May 1990, Groshans engaged in a series of transactions which resulted in the transfer of all of his 96% interest in Genoa Corp. (the "Genoa Securities") to the U.S. Government Series, Odd Lot Fund, Environmental Awareness Fund, and SBA Prime Fund of SFT. In return for the Genoa Securities, SFT allegedly issued shares having a net asset value in excess of $2,000,000 to BCMC, a company of which Groshans was an officer, director, and the majority stockholder at the time the SFT shares were issued to BCMC (the "Genoa Transactions"). Groshans then redeemed his shares in these series for his own benefit. The Complaint also alleged that the Genoa Securities held by SFT were worth less than the value ascribed to them.

3. By resolution on October 18, 1990, a special committee of SFT's Board of Directors determined that the Genoa Securities had no value, which had the effect of reducing the net asset value of each of SFT's portfolios holding Genoa Securities.

4. Groshans, without admitting or denying any of the allegations in the Complaint, consented to an injunction permanently enjoining him from association with any investment adviser or investment company, and from violating certain provisions of the federal securities laws. In issuing the injunction, the Court reserved the question of whether monies obtained as a result of the activities alleged in the Complaint must be disgorged.

5. On October 19, 1990, the Court appointed Richard Lichter as trustee (the "SFT Trustee") to take immediate possession of the assets and manage the operations of SFT. Pursuant to a trust agreement, the SFT Trustee transferred all of the Genoa Securities and certain related assets held by SFT to a trust (the "Genoa Trust") for the benefit of SFT's then and former shareholders who may have been adversely affected by the Genoa Transactions (the "Affected Shareholders"). The assets of the Genoa Trust will be allocated among the following SFT portfolios according to these percentages, which represent the approximate percentage of Genoa Securities held by each portfolio prior to creation of the Genoa Trust: U.S. Government Series—81.77%, Odd Lot Fund—5.21%, Environmental Awareness Fund—2.60%, and SBA Prime Fund—10.42%. The proceeds from the liquidation of the Trust assets will be distributed to the Affected Shareholders *pro rata* within each portfolio in accordance with the number of shares of

each portfolio held by each shareholder on October 19, 1990.

6. Pursuant to an acquisition agreement dated February 20, 1991 (the "Acquisition Agreement"), the SFT Trustee, on behalf of SFT and with the approval of the Court, transferred substantially all of the balance of SFT's assets to investment companies managed by Penn Square Management Corporation ("Penn Square"). Penn Square agreed to acquire the assets of the U.S. Government Series, Environmental Awareness Fund, Odd Lot Fund, and SBA Prime Fund, aggregating approximately $20,111,527 (the "Acquisition"). On April 2, 1991, the Penn Square funds filed with the SEC registration statements on Form N-14 containing proxy materials soliciting approval of the Acquisition Agreement by SFT's shareholders. The proxy materials were mailed to SFT's shareholders on June 15, 1991. At a special shareholder meeting on July 15, 1991, the shareholders of the U.S. Government Series, Odd Lot Fund, Environmental Awareness Fund, SBA Prime Fund, and Defense Series (the "Exchanging Funds") approved the Acquisition Agreement.

7. At the close of business on July 19, 1991, the shares of all of the Exchanging Funds except the Defensive Series were exchanged for shares in either the William Penn Interest Income Fund ("William Penn") or Penn Square Mutual Fund ("Mutual") having a value equal to the net asset value of the SFT assets acquired. The shares of the Defensive Series were not exchanged because Penn Square could not determine that such acquisition would be tax-free. Simultaneous with such exchange, the William Penn and Mutual shares acquired by SFT were distributed to the shareholders of the respective SFT portfolios in accordance with such shareholders' relative holdings of each portfolio's shares.

8. Pursuant to the Acquisition Agreement, Penn Square also paid SFT approximately $126,000 based on a formula determined by the value of assets transferred. This payment was deposited in the Genoa Trust.[1]

9. Except as described in paragraph 10 below, approximately $823,926 of SFT's assets remained after the transfers to the Genoa Trust and to Penn Square.[2] The SFT Trustee liquidated these assets and distributed the net proceeds to the shareholders of the respective series.

10. Certain other funds were retained by the SFT Trustee in order to satisfy expenses of SFT remaining after consummation of the Acquisition. SFT incurred approximately $200,000 in expenses in connection with the Acquisition. These expenses included the legal fees incurred to negotiate the Acquisition Agreement, the costs related to Court hearings, and the cost of preparing proxy materials necessary to approve the Acquisition Agreement. The SFT Trustee anticipates additional legal and accounting expenses of approximately $100,000 to liquidate SFT and wind up its business affairs. Any funds remaining after the satisfaction of all expenses will be transferred to the Genoa Trust or distributed to SFT's former shareholders.

11. SFT had no shareholders at the time of filing of the application. SFT is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2878 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[1] The staff notes that William Penn, in a N-14 filed on June 14, 1991 to obtain approval of the Acquisition Agreement, makes the following statement regarding this payment: "(i)n typical mutual fund merger transactions, such a payment would normally be made to the investment adviser of the acquired fund. Because SFT's contracts with its investment advisers have been terminated, Penn Square is making this payment directly to the Trust, which will help to compensate Affected Shareholders for a portion of their loss."

[2] On January 28, 1992, the staff received a letter from Richard C. Lichter, the SFT Trustee, stating that the amount of $823,926 represents the approximate aggregate of the asset values of the fund series that were not acquired by the William Penn Funds, including the shares of the Defensive Series.

DEPARTMENT OF STATE

[Public Notice 1566]

Advisory Committee on International Investment; Meeting

The Department of State will hold a meeting of the Advisory Committee on International Investment on February 28, 1992 from 9 a.m. to 12:30 p.m. The meeting will be held in room 1107 at the Department of State, 2201 "C" Street NW. Washington, DC 20520.

This meeting will deal with Competition Policy and International Investment, the Role of International Investment in National High-Technology Research and Development Programs, and Privatization in Eastern Europe and the Commonwealth of Independent States.

Access to the Department of State is controlled and seating is limited. Therefore, members of the public wishing to attend the meeting must notify the Office of Investment Affairs at (202) 647—1128 to arrange clearance for admittance no later than five days before the meeting. An identification with a photograph, name, date of birth and Social Security number will be required. All attendees should use the "C" Street entrance.

Dated: January 29, 1992.

Stephen R. Gibson,

Director, Office of Investment Affairs.

[FR Doc. 92-2907 Filed 2-5-92; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1567]

United States Organization for the International Telegraph & Telephone Consultative Committee (CCITT) Study Group a Meeting; Meeting

The Department of State announces that CCITT Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Thursday, February 27, 1992 in Conference Room 1105, commencing at 9:30 a.m. and Tuesday, March 10, 1992 at 1 p.m., room 1406; both meetings at the Department of State, 2201 C Street, NW, Washington, DC 20520.

The Agenda for the meeting of February 27 will include a review of the results of the February 4-14, 1992 meeting of Study Group II and preparations for upcoming meetings of Study Group III and I, scheduled for Geneva, March 2-6 and March 24-April 3, 1992, respectively. The March 10 meeting will deal with issues of concern primarily with Study Group I's final meeting. A more detailed draft agenda for the Study Group A meeting will be introduced at this meeting.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair.

Please Note: Persons planning to attend the above meeting must announce this no later than five days before the meeting to the Department of State, Earl S. Barbely (202) 647-0201 (fax 202-647-7407). The announcement must include name, social security number, and date of birth, if you have not already provided this personal data to this office. The above includes government and non-government attendees. All attendees must use the C Street entrance.

Please bring 60 copies of documents to be considered at this meeting. If the document has been mailed, bring only 10 copies.

Dated: January 28, 1992.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.

[FR Doc. 92-2906 Filed 2-5-92; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1568]

Shipping Coordinating Committee, International Maritime Organization (IMO) Legal Committee; Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open public meeting at 1 p.m., on Tuesday, March 3, 1992, in room 2415 of U.S. Coast Guard Headquarter, 2100 Second Street SW., Washington, DC

The purpose of this meeting is to solicit public comments in preparation for the 66th Session of the International Maritime Organization (IMO) Legal Committee, scheduled to be held in London, England, March 16–20, 1992.

The principal focus of the SHC public meeting will be to discuss the ongoing Legal Committee deliberations concerning the question of liability and compensation related to the maritime carriage of hazardous and noxious substances (HNS).

The views of the public, and particularly those of affected maritime commercial and environmental interests, are requested.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room.

For further information or to submit views concerning any of the topics to be addressed at the SHC meeting, contact either Captain Jonathan Collom or Lieutenant Commander Mark J. Yost, U.S. Coast Guard (G-LMI), 2100 Second Street SW., Washington, DC 20593 telephone (202) 267–1527, telefax (202) 267–4163.

Dated: January 27, 1992.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 92- 2905 Filed 2-5-92; 8:45 am]

BILLING CODE 4710-7-M

[Public Notice 1570]

Bureau of International Communications and Information Policy; Organizational Meeting for U.S.-Brazil Bilateral Talks on Telecommunications and Information Policy and Technology; Meeting

The Department of State/CIP announces that the initial organizational meeting for U.S.-Brazilian bilateral talks on telecommunications and information policy and technology will be held on Tuesday, February 20, 1992, at 2 p.m. in room 6320, Department of State, 2201 "C" Street NW, Washington, DC 20520.

At present, the bilateral talks are scheduled for March 25 through March 27, 1992, in Brazil. Present plans call for a joint U.S. Government-U.S. private industry delegation, under the Ambassador Bradley P. Holmes of the Bureau of International Communications and Information Policy, Department of State, to represent U.S. Government and private sector views to the Brazilian government and private industry. This organizational meeting will offer to all interested participants the opportunity to comment on the proposed agenda, and related activities.

Ambassador Bradley P. Holmes will chair the meeting.

Members of the general public may attend the meeting and engage in the above-cited tasks of the meeting, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building in controlled and individual passes are required for each attendee. Entry will be facilitated if arrangements are made in advance of the meeting.

Prior to the meeting, persons who plan to attend should so advise the office of Mr. Daniel E. Goodspeed, room 5310—CIP, Department of State, Washington, DC 20520; telephone (202) 647–7847, fax (202) 647–0158. The must provide Mr. Goodspeed with their name, title, company name, social security number, and date of birth. All attendees must use the "C" street entrance to the building.

Dated: February 3, 1992.

Daniel E. Goodspeed,

Counselor, Bureau of International Communications and Information Policy.

[FR Doc. 92–2955 Filed 2-5-92; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 91-66; Notice 1]

Receipt of Petition for Temporary Exemption From Three Federal Motor Vehicle Safety Standards; Chrysler Corp.

Chrysler Corporation of Highland Park, Michigan, has petitioned for a temporary exemption from three Federal motor vehicle safety standards, for multipurpose passenger vehicles that will be electrically powered. The basis of the petition is that an exemption will facilitate the development and field evaluation of low-emission motor vehicles.

Notice of receipt of the petition is published in accordance with agency regulations on the subject (49 CFR part 555), and does not represent any judgment of the agency on the merits of the petition.

Petition is made on behalf of the Chrysler TEVan, an electrically driven version of the Dodge Caravan/Plymouth Voyager multipurpose passenger vehicle. The TEVan has been developed in cooperation with the Electric Power Research Institute, U.S. Advanced Battery Consortium, and the United States Department of Energy. The basis for the petition is that a temporary exemption would facilitate the development and field evaluation of a low-emission motor vehicle, as provided by 49 CFR 555.6(c). The vehicles will use electric motors powered by nickel-iron or other equivalent batteries that replace the internal combustion engine. According to Chrysler, the TEVan will meet the California Air Resource Board zero emission requirements, and are low-emission vehicles as defined by section 123(g) of the National Traffic and Motor Vehicle Safety Act.

The TEVan differs from regular production vans as follows: the internal combustion engine, transmission, coolant system, power brakes, gasoline fuel system, and power steering system have been replaced by an electric drive motor, a nickel-iron or equivalent battery pack, a micro-processor based battery management system, a controller-converter-charger unit, a two-speed manual/automatic transmission, and electric-motor-driven pumps for the vacuum power brakes and the hydraulically assisted power steering. Finally, the hot water heater/defroster unit is replaced by an electric resistance type heating/defrosting system.

The TEVan is based on production vehicles certified as complying with all applicable Federal motor vehicle safety standards. However, it will not comply with the portions of the standards indicated below.

1. Standard No. 101, *Controls and Displays.*

S5.1. The TEVan will be equipped with a state-of-charge gauge to serve as an indicator of reserve battery power, rather than the fuel gauge required by the standard.

2. Standard No. 102, *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect.*

S3.1.2. The requirement for transmission braking effect is met by regenerative braking, in which the electric motor becomes a generator, recharging the batteries and dissipating energy in the process. Regenerative braking can be switched off at the option of the driver to restore steering control on slippery surfaces.

S3.1.3. The starter interlock mechanism will be deleted since there will be no electric starting motor.

S3.1.4. The automatic transmission shift mechanism will be replaced with an electric switch control device that operates in a similar manner.

3. Standard No. 105, *Hydraulic Brake Systems.*

S5.1. The performance of the service brake system is predicated on the use of the regenerative characteristic of the drive motor to augment the power-assisted hydraulic wheel brakes. The motor, driven through the transmission by the mass of the coasting vehicle, functions as a generator to dissipate energy through charging the drive batteries. The petitioner has not conducted tests using regenerative braking; however, tests of a conventionally powered weighted simulation of the TEVan indicate that the TEVan will meet the stopping distance requirements of S5.1.1. In the fade and recovery test, S5.1.4, the distance specified between the starting points of successive brake applications at 60 mph is 0.4 mile. The TEVan cannot accelerate to 60 mph in that distance, so the test cannot be conducted as prescribed, but based on the performance of a simulated TEVan, the TEVan could comply if it could accelerate as specified.

On TEVans equipped with anti-lock brake systems, the regenerative braking will be disabled during hard stops that actuate the anti-lock feature of the brakes.

According to the petitioner, an exemption would facilitate the development and field evaluation of a low-emission motor vehicle by enabling the petitioner to develop the electric drive motor, battery controller, battery, and other subsystems to increase the efficiency and durability of future generations of electric vehicles.

The petitioner has requested exemptions that will terminate September 1, 1993. It argues that the exemptions will not unduly degrade the safety of the vehicles because the vehicles from which the TEVan is adapted are certified as conforming to the standards. Further, the vehicles will be used for developmental purposes only, and will be destroyed upon termination of the evaluation program.

Finally, petitioner argues that granting the exemption would be in the public interest and consistent with the National Traffic and Motor Vehicle Safety Act because it would accelerate the development of electrically-driven vehicles and related technology which could help to reduce the dependency on foreign oil.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 9, 1992.

(15 U.S.C. 1410; delegations of authority at 49 CFR 1.50, and 501.8)

Issued on January 31, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-2851 Filed 2-5-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 91-58; Notice 2]

Navistar International Transportation Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Navistar International Transportation Corp. (Navistar) of Fort Wayne, Indiana, for a determination that its noncompliance with Motor Vehicle Safety Standard No. 106, *Brake Hoses,* is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on December 2, 1991, and an opportunity afforded for comment (56 FR 61275).

Paragraph S7.3.7 of Federal Motor Vehicle Safety Standard No. 106 specifies that, "Except for hose reinforced by wire, an air brake hose shall withstand a tensile force of eight pounds per inch of length before separation of adjacent layers." On September 24, 1991, Navistar's five Parts Distribution Centers were notified by Anchor Swan, Inc. that certain cartons they received of bulk air brake hose, manufactured in 1987, failed to comply with the adhesion requirements of Standard No. 106.

Navistar supported its petition for inconsequential noncompliance with the following:

Navistar believes the 8 pound adhesion test set forth in subparagraph S7.3.7 of Standard 106 is directly derived from SAE standards developed in the 1960's. It further believes that this test provision was a reflection of concern that brake hoses experiencing an adhesion problem under a vacuum condition could present a safety problem. To its knowledge, no air brake hose in vehicle air brake systems are subjected to vacuum.

In the Anchor Swan Defect and Noncompliance report to NHTSA, it was stated that "NHTSA had determined that low adhesion in brake hoses can result in the build up of air between plies. The trapped air can cause inward ballooning of the hose, resulting in slow reaction of the brake served, or complete malfunction due to the hose conduit being blocked altogether."

Navistar does not believe that an inward ballooning will occur. However, if it could occur, Navistar believes that the following would have to happen: Air would either have to escape through the end fitting and follow the reinforcement cord to a weak point, or air would have to permeate the tube and build a pressure differential at the reinforcement.

It seems unlikely that, once by the end fitting, the air would not vent to the atmosphere. For pressure to build at the reinforcement due to permeation, the permeation rates for the tube and cover would have to be significantly different with the tube having a much higher rate than the cover. An evaluation by Anchor Swan has shown that there is no significant difference in the permeation rate between the tube and the cover materials. Because the cover is thinner,

any pressure in the reinforcement later would, in any event, result in a ballooning of the cover, not an internal ballooning of the tube.

Once the hose is made into an assembly and used in a typical air brake system, Navistar projects no reduction in life expectancy resulting from low layer adhesion as compared with an assembly containing hose meeting the specification.

No comments were received on the petition.

A previous petition by Navistar International relating to adhesion failures in hose manufactured by Dana Weatherhead was granted on October 11, 1991 (56 FR 51440), on the basis of the following arguments:

1. The end use of the hoses was such that they were subject to pressure, not vacuum applications.

2. If the hoses were used in vacuum applications, their crimped end fittings make it unlikely that air would become trapped between the layers of the hose.

3. If there is any permeation of air from the inner tube, the hoses are designed to release it through the pin-pricked outer layer.

The petitioner uses the Anchor Swan hoses in pressure applications. The outer layer of the hoses is pin-pricked. The hoses are equipped with the same crimped end fittings as the Weatherhead hoses. Thus, the same factors exist in this case as in the previous petition which was granted.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued: January 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-2852 Filed 2-5-92; 8:45 am]

BILLING CODE 4910-59-M

Maritime Administration

[Docket S-887]

Puerto Rico Maritime Shipping Authority; Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended, to Operate in the Domestic Trade

Notice is hereby given that Puerto Rico Maritime Shipping Authority (PRMSA) by application dated January 28, 1992, has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended (Act), for the temporary transfer of up to five Lancer-class vessels which PRMSA owns to a purely domestic service during calendar year 1992 between Puerto Rico and ports along the U.S. Atlantic and gulf coasts. Section 506 permits the temporary transfer for up to six months of construction-differential subsidy (CDS) built vessels "whenever the Secretary determines that such transfer is necessary or appropriate to carry out the purposes of the Act." Consent by MARAD is to be conditioned upon payment to MARAD, upon such terms as MARAD may prescribe, of "an amount which bears the same proportion to the CDS paid by the Secretary as such temporary period bears to the entire economic life of the vessel."

PRMSA states that it has been operating five or six of its seven American-flag cargo vessels in its combined mainland—Puerto Rico—foreign trade service. The seventh vessel has been on charter to the Military Sealift Command (MSC). The number of vessels operated and their schedules are dictated by and vary due to cargo volumes, cargo type, cargo location and the regulatory inspection or maintenance of the vessels.

PRMSA is requesting this waiver to provide for vessel scheduling that will be flexible enough to meet the needs of the shipping public while allowing PRMSA the opportunity to create a cost-effective service during this business recession period which has had an effect on PRMSA's traditional cargo flows. Coupled with yet to be calculated cargo reallocation if PRMSA's roll-on roll-off service is terminated, PRMSA has to deal with multiple cargo unknowns. With these uncertainties, PRMSA requires operating flexibility to be able to service the needs of the shipping public. With the granting of this waiver, PRMSA claims it will be able to maintain an adequate and well-balanced American-flag service in the furtherance of and to promote the commerce of the United States. In PRMSA's view, the efficiencies available by granting this request will allow the shipping public, including the people of the Commonwealth of Puerto Rico, to derive the benefits from these efficiencies.

An additional reason for this request is to allow the flexibility necessary to adjust the vessel schedules during periods when a vessel or vessels are out of service for drydocking or regulatory repairs. Due to the limited number of repair shipyards with adequate drydock capacity able to handle a Lancer-class vessel, it is very difficult for PRMSA to find an available drydock on short notice. Over the next 18 months all five Lancers will require regulatory drydocking. It is PRMSA's policy to drydock vessels during non-peak cargo periods, so that the shipping public will experience the least amount of disruption and inconvenience. PRMSA requires the flexibility, which it believes this waiver will allow, to maintain the highest continuity of service for the benefit of the shipping public and in promotion of the commerce of the United States of America, while continuing to meet its regulatory obligations.

PRMSA maintains that the granting of this waiver will: (i) Not change the ports PRMSA currently serves; (ii) not increase the frequency of its vessel calls; and (iii) not increase its cargo carrying capacity from any port. PRMSA contends that in some cases, during some periods, cargo carrying capacity will actually decrease. PRMSA feels that this waiver will merely allow it to maintain its service levels, schedules and continuity, for the benefit of its customers, the U.S. shipping public.

Although publication of a Notice with respect to PRMSA's request for permission under section 506 is not required, the Maritime Administration believes that it is appropriate to provide an opportunity for interested parties to comment on PRMSA's application.

Any person, firm, or corporation having any interest in the application for section 506 permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, by the close of business on February 20, 1992. The Maritime Administration, as a matter of discretion, will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidies (CDS)).

By Order of the Maritime Administrator.

Dated: February 3, 1992.

James E. Saari,

Secretary.

[FR Doc. 92-2917 Filed 2-5-92; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

January 31, 1992.

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: 1545-0736.

Regulation ID Number: LR-274-81 Final Regulations.

Form Number: None.

Type of Review: Extension.

Title: Accounting for Long-term Contracts.

Description: These recordkeeping requirements are necessary to determine whether the taxpayer properly allocates indirect contract costs to extended period long-term contracts in accordance with the regulations. The recordkeeping requirement is effective for taxable years beginning after 1982. The information will be used to verify the taxpayer's allocations of certain indirect costs.

Respondents: Businesses or other for-profit, and Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours Per Recordkeeper: 10 hours, 1 minute.

Estimated Total Recordkeeping Burden: 10,010 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.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 92-2833 Filed 2-5-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

January 23, 1992.

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: 1545-0723

Regulation ID Number: LR-115-72 Final Regulations.

Type of Review: Extension.

Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes.

Description: Chapters 31 and 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Section 6416 allows a refund or credit of the tax to manufacturers in certain cases. Sections 6420, 6421, 6424, and 6427 allow refunds or credits of the tax to certain users of the articles. Section 6412 allows a credit or refund for certain floor stock.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,967,491.

Estimated Burden Hours Per Respondent/Recordkeeper: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 655,823 hours.

OMB Number: 1545-1115

Regulation ID Number: CO-51-89-NPRM and Temporary.

Type of Review: Extension.

Title: Treatment of Gain or Loss on Deemed Sale of Affected Target Stock.

Description: Because of the changes made by the Tax Reform Act of 1986, this information is necessary to inform the affected public of the proper determination of the amount of gain or less recognized by a target corporation upon its deemed sale under section 338(a) of the stock of a target affiliate.

Respondents: Businesses or other for-profit.

Estimated Number of Respondent: 13.

Estimated Burden Hours Per Respondent: 1 hour, 11 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 31 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. 92-2834 Filed 2-5-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

January 31, 1992.

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: 1545-1221.

Regulation ID Number: EE-147-87 Final Regulations.

Type of Review: Extension.

Title: Qualified Separate Lines of Business.

Description: The affected public includes employers who maintain qualified retirement plans for their employees. The employer must furnish notice to IRS that the employer is treating itself as operating qualified separate lines of business. Where applicable, an employer may request a determination from IRS that such lines satisfy administrative scrutiny.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 743.

Estimated Burden Hours Per Respondent: 3 hours, 55 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 2,907 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. 92–2909 Filed 2–5–92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

January 31, 1992.

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.

Office of Thrift Supervision

OMB Number: 1550–0062.

Form Number: None.

Type of Review: Extension.

Title: Minimum Security Devices and Procedures.

Description: Bank Protection Act and Office of Thrift Supervision (OTS): Implementing regulations require savings associations to establish security devices and procedures. Written security program allows OTS to evaluate whether savings associations have adopted policies and procedures to assure compliance with law and regulations.

Respondents: Businesses or other for-profit.

Estimated Number of Recordkeepers: 2,220.

Estimated Burden Hours Per Recordkeeper: 3 hours.

Frequency of Response: Annually.

Estimated Total Recordkeeping Burden: 6,660 hours.

Clearance Officer: John Turner (202) 906–6840, Office of Thrift Supervision, 2nd Floor, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2908 Filed 2–5–92; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

January 29, 1992.

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 95–511. 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, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0367.

Form Number: IRS Forms 4804 and 4802.

Type of Review: Extension.

Title: Transmittal of Information Returns Reported Magnetically/Electronically (4804), Transmittal of Information Returns Reported Magnetically/Electronically (Continuation of 4804) (4802).

Description: 26 U.S.C. 6041 and 6042 require that all persons engaged in a trade or business and making payments of taxable income must file reports of this income with IRS. In certain cases, this information must be filed on magnetic media. Forms 4804 and 4802 are used to provide a signature and balancing totals for magnetic media filers of information returns.

Respondents: State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees; Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 37,640.

Estimated Burden Hours Per Respondent/Recordkeeper:
Preparing Form 4804—18 minutes
Preparing Form 4802—20 minutes

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 45,406 hours.

OMB Number: 1545–0742.

Regulation ID Number: EE–111–80 (T.D. 8019) Final.

Type of Review: Extension.

Title: Public Inspection of Exempt Organizations' Returns.

Description: Section 6104(b) authorizes the Service to make available to the public the returns required to be filed by exempt organizations. The information requested in Treasury Regulations S301.6104(b)–1(b)(4) is necessary in order for the Service not to disclose confidential business information furnished by businesses which contribute to exempt black lung trusts.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 22.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 22 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. 92–2835 Filed 2–5–92; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Guercino: Master Painter of the Baroque" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619–5078, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Gallery of Art, Washington, DC, from March 15, 1992, to on or about May 17, 1992, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: January 31, 1992.

Alberto J. Mora,

General Counsel.

[FR Doc. 92-2918 Filed 2-5-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 25
Thursday, February 6, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Friday, February 7, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Choking Hazards Options.

The staff will brief the Commission on options for Commission action with regard to a rulemaking proceeding to address choking hazards associated with toys and other articles with small parts intended for children aged three years to approximately six years.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504-0800.

Dated: February 3, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92-2965 Filed 2-3-92; 4:35 pm]

BILLING CODE 6355-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:28 a.m. on Monday, February 3, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman William Taylor, Vice Chairman Andrew C. Hove, Jr., and Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Dated: February 3, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-2964 Filed 2-3-92; 4:13 pm]

BILLING CODE 6714-0-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 11, 1992, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, February 13, 1992, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Title 26 Certification Matters
Advisory Opinion 1992-1: Mr. Roger Faulkner
Advisory Opinion 1992-2: Ms. Carol Darr and Mr. Eric London on behalf of the Democratic National Committee
Advisory Opinion 1992-4: Mr. John Michael Cortese.
Advisory Opinion 1992-6: Mr. Garrett Simmons on behalf of David Duke
Proposed Rulemaking to Clarify the Disclaimer and Other Requirements When Nonauthorized Committees Utilize a Candidate's Name in the Name of a Special Fundraising Project
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219-4155.

Delores Harris,

Administrative Assistant, Office of the Secretariat.

[FR Doc. 92-3027 Filed 2-4-92; 3:05 pm]

BILLING CODE 6715-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 1:30 p.m., February 18, 1992.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the January 21, 1992, Board meeting.
2. Labor Department briefing.
3. Thrift Savings Plan activity report by the Executive Director.
4. Review of KPMG Peat Marwick audit reports entitled:
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Billing Process at the United States Department of Agriculture, Office of Finance and Management, National Finance Center"
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan C and F Fund Investment Management Operations at Wells Fargo Institutional Trust Company and Wells Fargo Nikko Investment Advisors"
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Audit Performed by the U.S. Central Intelligence Agency, Office of the Inspector General"
5. Quarterly review of investment policy.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523-5660.

Dated: February 3, 1992.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 92-3029 Filed 2-4-92; 3:00 pm]

BILLING CODE 6701-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 5-92

Notice of Meetings

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations

(45 CFR part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, time, and subject matter

Oral Hearings on objections to Proposed Decisions issued on claims against Iran:

Wed., Feb. 19, 1992* at 10:00 a.m.
IR-0013—Jon L. Buczek
IR-0029—John T. Martin
Wed., Feb. 19, 1992* at 11:00 a.m.
IR-0077—Gerard Torma
IR-0416—Joseph Sokoloski
Wed., Feb. 19, 1992* at 2:00 p.m.
IR-0462—Donald A. Buckner
IR-0691—James C. Medlock
Wed., Feb. 19, 1992* at 3:00 p.m.
IR-2404—Les-Tex Industries, Inc.
IR-0722—Kandeth Company
Thurs., Feb. 20, 1992 at 10:30 a.m.
Consideration of Proposed Decisions on claims against Iran.

*The hearing site will be: 601 D Street, NW., Classroom A&B, 10th Floor, Patrick Henry Bldg., Washington, DC.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208-7727.

Dated at Washington, DC on February 3, 1992.

Judith H. Lock,

Administrative Officer.

[FR Doc. 92-3049 Filed 2-4-92; 4:13 pm]

BILLING CODE 4410-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Audit and Appropriations Committee Meeting; Notice

TIME AND DATE: A meeting of the Board of Directors Audit and Appropriations Committee will be held on February 16, 1992. The meeting will commence at 12:00 p.m.

PLACE: The Westin Canal Place Hotel, 100 Rue Iberville, The Terrace Room, New Orleans, LA 70130, (504) 566-7006.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of January 12, 1992 Meeting.
3. Consideration of Budget and Expenses Through December 1991.
4. Consideration of Written Rationale Supporting Fiscal Year 1993 Appropriations Request.
5. Consideration of Adequate Funding for the Micronesian Legal Services Corporation.
6. Consideration of the Audit and Appropriation Committee's Operating Guidelines.

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 863-1839.

Date Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92-3009 Filed 2-4-92; 1:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Reauthorization Committee Meeting of February 17, 1992; Notice

TIME AND DATE: A meeting of the Board of Directors Reauthorization Committee will be held on February 17, 1992. The meeting will commence at 8:30 a.m.

PLACE: The Westin Canal Place Hotel, 100 Rue Iberville, The Terrace Room, New Orleans, LA 70130, (504) 566-7006.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of April 28, 1991 Meeting.
3. Consideration of Comment of the Inspector General Regarding Proposed Reauthorization Legislation for the Corporation.
4. Consideration of Proposed Reauthorization Legislation for the Legal Services Corporation.

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 863-1839.

Date Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92-3010 Filed 2-4-92; 1:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS MEETING

TIME AND DATE: A meeting of the Board of Directors will be held on February 17, 1992. The meeting will commence at 10:00 a.m.

PLACE: The Westin Canal Place Hotel, 100 Rue Iberville, The Terrace Room, New Orleans, LA. 70130, (504) 566-7006.

STATUS OF MEETING: *Open*, except that a portion of the meeting will be closed pursuant to a majority vote of the Board of Directors, taken during the period of February 3-4, 1992. At the closed session, the Board of Directors will hear and consider the report of the General Counsel on litigation to which the Corporation is a party, and will consider, in consultation with its special counsel, pending personnel actions and personnel-related rules and practices, including matters related to current investigations being undertaken by the Corporation's Office of the Inspector General. The Board of Directors will also receive and consider a report on current investigations from the Inspector General. Finally, the Board of Directors will have the opportunity to confer with the General Counsel regarding the General Counsel's privileged and confidential memorandum to the Board regarding the duties, responsibilities and rights of board members. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c)(2), (7), and (10)], the corresponding regulation of the Legal Services Corporation [45 C.F.R. Sections 1622.5(a), (f), and (h)], and the protections provided by the attorney/client privilege. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 400 Virginia Avenue, S.W., Washington, D.C., 20024, in its three reception areas, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Presentation by Mr. Sandy D'Alemberte, President, American Bar Association.
3. Approval of Minutes of January 13, 1992 Meeting.
4. Chairman's and Members' Reports.
5. President's Report.
6. Inspector General's Report.
7. Consultation with Board's Counsel, the General Counsel and the Inspector General Regarding Management's Revised Draft Response to the Inspector General's Semiannual Reports.

CLOSED SESSION: [3]

8. Consideration of Report by Inspector General on Current Investigations and Other Matters.
9. Consideration of Pending Personnel Actions and Personnel-Related Rules and Practices and Consultation with Board's Special Counsel.
10. Consideration of the General Counsel's Report on Pending Litigation to which the Corporation is a Party.

[3] It is anticipated that the executive session will conclude at approximately 1:05 p.m. The open session will reconvene immediately thereafter.

11. Questions Posed by the Board of Directors to the General Counsel Regarding the General Counsel's Privileged and Confidential Memorandum Regarding Board Member Duties, Responsibilities and Rights.

OPEN SESSION:

(Resumed)

12. Consideration of Operations and Regulations Committee Report.
13. Consideration of Audit and Appropriations Committee Report.
14. Consideration of Office of the Inspector General Oversight Committee Report.
15. Consideration of Provision for the Delivery of Legal Services Committee Report.
16. Consideration of Special Reauthorization Committee Report.
17. Consideration of Other Business.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 863–1839.

Date Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–3011 Filed 2–4–92; 1:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Office of the Inspector General Oversight Committee; Notice

TIME AND DATE: A meeting of the Board of Directors Office of the Inspector General Oversight Committee will be held on February 16, 1992. The meeting will commence at 2:00 p.m.

PLACE: The Westin Canal Palace Hotel, 100 Rue Iberville, the Terrace Room, New Orleans, LA 70103, (504) 566–7006.

STATUS OF MEETING: Open, except that a portion of the meeting will be closed in accordance with a majority vote of the Board of Directors taken by telephone during the period of February 3–4, 1992. In the closed session, the Office of the Inspector General Oversight Committee will hear and consider a report by the Inspector General regarding current investigations being conducted by the Office of the Inspector General. The closing is authorized by the relevant section of the Government in the Sunshine Act [5 U.S.C. Section 552(b)(7)], and the corresponding regulation of the Legal Services Corporation [45 CFR Section 1622.5(f)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for inspection at the Corporation's headquarters, located at 400 Virginia Avenue, SW., Washington, DC 20024, in its three reception areas, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of January 12, 1992 Meeting.
3. Consideration of Inspector General's Report on the General Activities of the Office of the Inspector General.
4. Consideration of Revised Draft Management Report on the Inspector General's 1990 and 1991 Semiannual Reports.

CLOSED SESSION:

5. Consideration of Inspector General's Report on the Status of Investigations Currently Being Conducted by the Office of the Inspector General.

OPEN SESSION:

(Resumed)

6. Consideration of Motion to Adjourn Meeting.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 862–1839.

Dated Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–3012 Filed 2–4–92; 1:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Operations and Regulations Committee Meeting; Notice

TIME AND DATE: A meeting of the Board of Directors Operations and Regulations Committee will be held on February 16, 1992. The meeting will commence at 3:30 p.m.

PLACE: The Westin Canal Place Hotel, 100 Rue Iberville, The Terrace Room, New Orleans, LA 70130, (504) 566–7006.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of January 13, 1992 Meeting.
3. Consideration of Report By Staff Competition Committee.

CONTACT PERSON FOR INFORMATION: Patricia Batie, Executive Office, (202) 863–1839.

Date Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–3013 Filed 2–4–92; 1:14 pm]

BILLING CODE 7050-01-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting of the Board of Directors

TIME AND DATE: 8:30 a.m., Thursday, February 13, 1992.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., 8th Floor Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, (202) 376–2441.

AGENDA:

I. Call to Order
II. Approval of Minutes, December 11, 1991, Regular Meeting
III. Resolution of Appreciation
IV. Committee Appointments
V. Audit Committee Report, February 4, 1992, Regular Meeting
VI. Budget Committee Report, January 8, 1992, Regular Meeting
VII. Treasurer's Report
VIII. Executive Director's Quarterly Management Report
VI. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 92–2991 Filed 2–4–92; 11:04 am]

BILLING CODE 7570-01-M

federal register

Thursday
February 6, 1992

Part II

Department of Education

College Facilities Loan Program; Applications for New Awards; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.142]

College Facilities Loan Program; Inviting Applications for New Awards Under the College Facilities Loan Program for Fiscal Year (FY) 1992

Purpose of Program: The College Facilities Loan Program provides low-interest loans to eligible undergraduate postsecondary educational institutions for the construction, reconstruction, or renovation of housing facilities, undergraduate academic facilities, and other educational facilities for students and faculties. These facilities further the objectives of Goal 5 of the AMERICA 2000 education strategy by enabling institutions to provide programs that will enable Americans to acquire the skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: Public or private non-profit postsecondary educational institutions; public or private non-profit hospitals; non-profit corporations or student housing cooperative corporations established for the purpose of providing housing at undergraduate postsecondary educational institutions; and state agencies, authorities, or instrumentalities providing housing or other educational facilities at undergraduate postsecondary educational institutions.

Deadline for Transmittal of Applications: April 13, 1992.

Deadline for Intergovernmental Review: June 12, 1992.

Applications Available: February 14, 1992.

Available Funds: $30,000,000.

Estimated Range of Awards: $250,000 to $3,000,000.

Estimated Average Size of Awards: $1,500,000.

Estimated Number of Awards: 20.

Project Period: Until completion.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74, subparts D and P; 34 CFR part 75, §§ 75.105, 75.600–75.616; 34 CFR parts 77, 79, 82, 85 and 86; and (b) The regulations for this program in 34 CFR part 614.

Priorities: In accordance with section 763(b) of the Higher Education Act, 20 U.S.C. 1132g–2(b), and 34 CFR 614.3(c), the Secretary gives priority to loans for renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period of time. To accomplish this objective, $15,500,000 will be reserved for loans for the renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period of time. In addition, in accordance with 34 CFR 614.3(b), the Secretary gives priority to loans to construct, reconstruct, or renovate housing facilities for students and faculties. A total of $14,500,000 will be reserved for loans for housing facilities. Under 34 CFR 75.105(c)(3), in this competition the Secretary funds only applications that meet either of these two absolute priorities.

Technical Assistance Workshops: The Department of Education will conduct technical assistance workshops to assist prospective applicants in application preparation. The workshops will take place in the Argos Center, University of South Florida, Tampa, FL, on March 3, 1992; the Tula Community Center, San Diego State University, San Diego, CA, on March 5, 1992; The GSA Regional Office Building Auditorium, 7th and D Streets SW., Washington, DC, on March 10, 1992, and the Marquette Center, Water Tower Campus, Loyola University, Chicago, IL, on March 12, 1992, from 9 a.m. until noon each day. Reservations are not necessary. For specific information on the workshops, please contact the Division of Higher Education Incentive Programs at (202) 708–8398, 708–9417, or 708–9421.

For Applications or Information Contact: John D. Adams or Anne S. Young, U.S. Department of Education, 400 Maryland Ave., SW., room 3022, ROB–3, Washington, DC 20202–5339. Telephone: (202) 708–9417 or (202) 708–9421. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1132g–1132g–3.

Dated: January 30, 1992.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92–2789 Filed 2–5–92; 8:45 am]

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federal register

Thursday
February 6, 1992

Part III

Department of Education

Veterans Education Outreach Program; Applications for New Awards for Fiscal Year 1992; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.064]

Veterans Education Outreach Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1992

Purpose of Program: Provides funds to institutions of higher education to provide outreach and recruitment activities, counseling and tutorial services for veterans, and special programs for disabled, incarcerated, and educationally disadvantaged veterans. This program furthers AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by assisting these veterans to acquire the skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: Institutions of higher education having at least 100 veterans with honorable discharges in attendance as undergraduates as of April 16 of the current year, or having prior participation in the Veterans Cost of Instruction Payments Program (VCIP) for a continuous period of three of the five most recent fiscal years ending on or before September 30, 1985, pursuant to 34 CFR 629.2(a) and (b).

Deadline for Transmittal of Applications: May 11, 1992.

Deadline for Intergovernmental Review: July 10, 1992.

Applications Available: March 2, 1992.

Available Funds: $2,700,000.

Estimated Range of Awards: $1,000–$50,000.

Estimated Average Size of Awards: $5,000.

Estimated Number of Awards: 525.

Project Period: Up to 24 months.

Applicable Regulations: (a) Education Department General Administrative Regulations (EDGAR) 34 CFR parts 74, 75, 77, 79, 82, 85 and 86; and (b) the regulations for this program in 34 CFR part 629.

For Applications or Information Contact: Ronald D. Amon, U.S. Department of Education, 400 Maryland Ave., SW., room 3022, ROB-3, Washington, DC 20202-5339. Telephone: (202) 708-7861. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1070e-1.

Dated: January 30, 1992.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92-2790 Filed 2-5-92; 8:45 am]

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Thursday
February 6, 1992

Part IV

Department of the Interior

Bureau of Indian Affairs

Plan for the Use of the Zuni Indian Tribe Judgment Funds in Docket 161-79L Before the United States Claims Court; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Plan for the Use of the Zuni Indian Tribe Judgment Funds in Docket 161-79L Before the United States Claims Court

January 29, 1992.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

EFFECTIVE DATE: This plan was effective on November 15, 1991.

FOR FURTHER INFORMATION CONTACT: Terry Lamb, Historian, Bureau of Indian Affairs, Branch of Acknowledgment and Research, MS 2612-MIB, 1849 C Street NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on January 31, 1991, in satisfaction of the award granted to the Zuni Indian Tribe before the United States Claims Court in Docket 161-79L. The plan for the use of the funds was submitted to Congress with a letter dated September 11, 1991, and was received by the Senate on September 16, 1991, and by the House of Representatives on September 16, 1991. The plan became effective on November 15, 1991, as provided by the 1973 Act, as amended by Public Law 97-458, since a joint resolution disapproving it was not enacted. The plan reads as follows:

For the Use of Judgment Funds Awarded to the Zuni Indian Tribe in Docket 161-79L before the United States Claims Court

The funds appropriated on January 31, 1991, in satisfaction of the award granted to the Zuni Indian Tribe in settlement of Docket 161-79L, before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used as follows:

1. Expenses

A. Outstanding Loans

The sum of $175,000 plus accrued interest shall be paid to satisfy existing loans made to the Zuni Indian Tribe by the Jicarilla Indian Tribe and the United New Mexico Bank in the amounts of $50,000 and $125,000, respectively.

B. Education

The amount of $1,700,000 will be provided to the Zuni Public School District for completion of construction of A:SHIWI Elementary School for the purpose of enhancing educational opportunities for all Zuni community children. Any residual funds from paragraph 1A and 1B of this plan shall be transferred to the investment activity and utilized pursuant to Section 2 of this plan.

C. Land Purchase

The amount of $250,000 will be used to reimburse the Bureau of Indian Affairs for the down payment of the Ellsworth Ranch.

D. No Per Capita Payments

None of the funds shall be paid as per capita or dividend payments.

2. Investments

A. Management

All the remainder of the funds not expended pursuant to the preceding paragraphs shall be invested by the Secretary of the Interior in an investment program. If in the future, the Zuni Indian Tribe should desire to undertake the investment of the funds instead of having the investment made by the Secretary, the Tribal Council may present an investment plan to the Secretary for approval.

The investment plan will contain or be subject to the requirements of sound investments, responsible accounting, and adequate controls to obtain maximum benefit for the Zuni Indian Tribe.

Upon the Secretary's approval of the investment plan, the invested funds will be transferred to the Zuni Indian Tribe at a mutually agreed upon time. All responsibility of the United States for the judgment funds or the investment or use of the funds so transferred shall cease at the time the funds are transferred.

B. Authorized Purchases

All funds, including interest and investment income accrued, shall be invested and managed pursuant to paragraph 2A until such time as the Zuni Tribal Council authorizes their use for any tribal development program, including land purchases, other tribal programs or other tribal loan repayments not included in paragraph 1A above. No authorized program shall provide per capita or dividend payments to tribal members.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92-2892 Filed 2-5-92; 8:45 am]

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Reader Aids

Federal Register

Vol. 57, No. 25

Thursday, February 6, 1992

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

3909-4146 3
4147-4356 4
4357-4542 5
4543-4690 6

CFR PARTS AFFECTED DURING FEBRUARY

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.

7 CFR

1 3909
271 3909
278 ..... 3909, 3913
279 3909
907 3916
916 3918
918 4147
944 4148
1007 3920
1065 ..... 4150, 4151
1413 3921
1421 4543
1710 4513
1940 3922
1942 4357
1980 ..... 4336, 4358

Proposed Rules:

273 3961
319 3963
703 ..... 4164, 4378
959 4164
998 3965

8 CFR

103 3925
245a 3925

9 CFR

78 3926

10 CFR

2 4152
15 4152

Proposed Rules:

Ch. I 4166
100 4168

14 CFR

39 ..... 3927-3936, 4153
97 ..... 4360, 4361
1214 4544

Proposed Rules:

39 3966
71 ..... 4168, 4589
91 4352
135 4352

15 CFR

768 4553
770 4553
771 4553
772 4553
773 4553
774 4553
775 4553
776 4553
777 4553
778 4553
779 4553
785 4553
786 4553
790 4553
791 4553
799 4553
1201 4154

17 CFR

146 4363

19 CFR

Proposed Rules:

24 4589
113 4589
142 4589

20 CFR

209 4364
259 4365
404 3937

21 CFR

177 3938

24 CFR

888 4156
905 4282
990 4282
3280 3941

Proposed Rules:

0 3967
570 ..... 3970, 3971

26 CFR

20 4250
25 4250
301 4250

Proposed Rules:

25 4278

28 CFR

Proposed Rules:

16 3974

29 CFR

102 4157
1627 4158

30 CFR

Proposed Rules:

795 3975
816 4085
817 4085
870 3975
872 3975
873 3975
874 3975
875 3975
876 3975
886 3975

32 CFR

Proposed Rules:
505 4387

33 CFR

165 4366

36 CFR

7 4574

Proposed Rules:
7 4592
62 4592

38 CFR

14 4088
17 4367
19 4088
20 4088

Proposed Rules:
1 3975
19 4131
20 4131

40 CFR

22 4316
51 3941
52 ..... 3941, 3946, 4158, 4367
180 4368
271 ..... 4370, 4371
272 4161
721 4576

Proposed Rules:
52 ..... 3976, 3978
75 4169
80 3980
156 4390
268 4170
704 4177
799 4177

41 CFR

101-26 3949
101-38 4373

42 CFR

Proposed Rules:
418 4516
440 ..... 4085, 4516
441 ..... 4085, 4516
482 4516
483 4516
488 4516

43 CFR

Proposed Rules:
3180 4177

Public Land Orders:
6921 4144

46 CFR

515 4578
560 4578
572 4578
580 3950
581 3950
583 3950

47 CFR

64 4373
73 ..... 3951, 3952, 4163

Proposed Rules:
63 4391
73 ..... 3982, 4179, 4180
74 4592
90 4180

48 CFR

Proposed Rules:
31 4181

49 CFR

571 4086
572 4086

Proposed Rules:
567 3983
568 3983
571 4594
1141 4594

50 CFR

611 3952
625 4248
642 4376
650 4377
672 ..... 3960, 4085
675 ..... 3952, 4085

LIST OF PUBLIC LAWS

Note: The List of Public Laws for the first session of the 102d Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 102d Congress, which convenes on January 3, 1992. A cumulative list of Public Laws for the first session was published in Part II of the **Federal Register** on January 2, 1992.

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48